
TEXAS REGISTER

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This month's front cover artwork:

Artist: Ashley Spangler

8th grade

Hendrick Middle School, Plano ISD

School children's artwork has decorated the blank filler pages of the *Texas Register* since 1987. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

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EMERGENCY RULES

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the ***Texas Register***, or on a stated date less than 20 days after filing and remaining in effect no more than 120 days. The emergency action is renewable once for no more than 60 additional days.

Symbology in amended emergency sections. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 330. Municipal Solid Waste

Subchapter P. Fees and Reporting

30 TAC §330.602

The Texas Natural Resource Conservation Commission is renewing the effectiveness of the emergency adoption of the amended §330.602, for a 60-day period. The text of the amended §330.602, was originally published in the April 12, 1996, issue of the *Texas Register* (21 TexReg 3103).

Issued in Austin, Texas, on July 12, 1996.

TRD-9610016

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Effective date: July 18, 1996

Expiration date: September 16, 1996

For further information, please call: (512) 239-1970

◆ ◆ ◆

Subchapter R. Management of Whole Used or Scrap Tires

30 TAC §330.804

The Texas Natural Resource Conservation Commission is renewing the effectiveness of the emergency adoption of new §330.804, for a 60-day period. The text of new §330.804, was originally published in the April 12, 1996, issue of the *Texas Register* (21 TexReg 3103).

Issued in Austin, Texas, on July 12, 1996.

TRD-9610017

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Effective date: July 18, 1996

Expiration date: September 16, 1996

For further information, please call: (512) 239-1970

◆ ◆ ◆

PROPOSED RULES

Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 25. Agricultural Development Board

Subchapter A. General Provisions

4 TAC §25.13

(Editor's Note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Agriculture or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Department of Agriculture (the department) proposes the repeal of §25.13, concerning expiration provision. The purpose of this repeal is to eliminate unnecessary regulations. The Agricultural Development Act program is no longer functional.

Dolores Alvarado Hibbs, deputy general counsel, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. Hibbs also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be a reduction of unnecessary regulations. There will be no effect on large or small businesses. There is no anticipated economic costs to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Dolores Alvarado Hibbs, Deputy General Counsel, Texas Department of Agriculture, P. O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The repeal is proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules for administration of the Texas Agriculture Code.

The code affected by this proposal is the Texas Agriculture Code, Chapter 57.

§25.13. *Expiration Provision.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610095

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: August 23, 1996

For further information, please call: (512) 463-7583

TITLE 13. CULTURAL RESOURCES

Part III. Texas Commission on the Arts

Chapter 31. Agency Procedures

13 TAC §31.10

The Texas Commission on the Arts proposes to adopt by reference an amendment to §31.10, concerning the application forms and instructions for the Financial Assistance Application Form. The purpose of this amendment is to be consistent with changes to programs and services of the commission as outlined in the Texas Arts Plan as amended September 1996.

Rhonda Hill, Director of Finance and Administration, Texas Commission on the Arts, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Hill also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing or administering the section will be that the commission will be able to utilize federal and state financial assistance funds in a more effective manner, thereby allowing more Texas organizations, communities, and citizens to participate in agency programs. There will be no effect on small businesses. There is no anticipated substantial economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Ricardo Hernandez, Assistant Director, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

The amendment is proposed under Government Code, §444.009, which provides the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and committees.

The Government Code, §444.009 is affected by this proposed rule.

§31.10 Financial Assistance Application Form.

The commission adopts by reference application form and instructions for the Financial Assistance Application Form as outlined the Texas Arts Plan as amended **September, 1996** [September 1993]. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610089

Rhonda L. Hill

Director of Finance and Administration

Texas Commission on the Arts

Earliest possible date of adoption: August 23, 1996

For further information, please call: (512) 463-5535



Chapter 35. Texas Arts Plan

13 TAC §35.1

The Texas Commission on the Arts proposes to adopt by reference an amendment to §35.1, concerning the Texas Arts Plan, which outlines the activities of the Commission. This section is being proposed to revise the Commission's mission, goals and assistance guidelines by reorganizing administrative and program structure to enable the agency to more effectively meet the needs of the citizens of Texas.

Rhonda Hill, Director of Finance and Administration, Texas Commission on the Arts, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Hill also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing or administering the section will be that the commission will be able to utilize federal and state financial assistance funds in a more effective manner, thereby allowing more Texas organizations, communities, and citizens to participate in agency programs. There will be no effect on small businesses. There is no anticipated substantial economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Ricardo Hernandez, Assistant Director, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

The amendment is proposed under Government Code, §444.009, which provides the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and committees.

The Government Code, §444.009 is affected by this proposed rule.

§35.1. Adoption of Texas Arts Plan.

The commission adopts by reference the Texas Arts Plan as amended **September, 1996** [September, 1993]. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610087

Rhonda L. Hill

Director of Finance and Administration

Texas Commission on the Arts

Earliest possible date of adoption: August 23, 1996

For further information, please call: (512) 463-5535



13 TAC §35.2

(Editor's Note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Commission on the Arts or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on the Arts proposes the repeal of §35.2 concerning the Addendum to the Texas Arts Plan. This purpose of this repeal is that this information has been incorporated into §35.1 of this title (relating to Texas Arts Plan).

Rhonda Hill, Director of Finance and Administration, Texas Commission on the Arts, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. Hill also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing or administering the repeal will be that the commission will be able to utilize federal and state financial assistance funds in a more effective manner, thereby allowing more Texas organizations, communities, and citizens to participate in agency programs. There will be no effect on small businesses. There is no anticipated substantial economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Ricardo Hernandez, Assistant Director, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

The repeal is proposed under Government Code, §444.009, which provides the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and committees.

The Government Code, §444.009 is affected by this repeal.

§35.2. Addendum to the Texas Arts Plan.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610090

Rhonda L. Hill

Director of Finance and Administration

Texas Commission on the Arts

Earliest possible date of adoption: August 23, 1996

For further information, please call: (512) 463-5535



Chapter 37. Application Forms and Instructions for Financial Assistance

13 TAC §37.23, §37.26

The Texas Commission on the Arts proposes to adopt by reference amendments to §37.23 and §37.26, concerning the application forms and instructions for the Arts in Education Program—Sponsors and the Texas Touring Arts Program—Sponsors. The purpose of these amendments is to be consistent with changes to programs and services of the commission as outlined in the Texas Arts Plan as amended September 1996.

Rhonda Hill, Director of Finance and Administration, Texas Commission on the Arts, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Hill also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing or administering the sections will be that the commission will be able to utilize federal and state financial assistance funds in a more effective manner, thereby allowing more Texas organizations, communities, and citizens to participate in agency programs. There will be no effect on small businesses. There is no anticipated substantial economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Ricardo Hernandez, Assistant Director, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

The amendments are proposed under Government Code, §444.009, which provides the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and committees.

The Government Code, §444.009 is affected by these proposed rules.

§37.23. Application Form and Instructions for Arts in Education Program-Sponsors.

The commission adopts by reference application form and instructions for Arts in Education Program—Sponsors as outlined in the Texas Arts Plan as amended **September, 1996** [September 1993]. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

§37.26. Application Form and Instructions for Texas Touring Arts Program Fee Support.

The commission adopts by reference application form and instructions for the Texas Touring Art Program—Sponsors as outlined in the Texas Arts Plan as amended **September, 1996** [September 1993]. This

document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610088

Rhonda L. Hill

Director of Finance and Administration

Texas Commission on the Arts

Earliest possible date of adoption: August 23, 1996

For further information, please call: (512) 463-5535



TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Telephone

16 TAC §23.103

The Public Utility Commission of Texas proposes new §23.103, relating to IntraLATA Equal Access. The proposed rule is necessary to comply with the Public Utility Act of 1995 (PURA 95) §3.219(c), which requires that the commission ensure that customers may designate a provider of their choice to carry their "0+" and "1+" intraLATA calls and that equal access in the public network is implemented such that the provider may carry such calls.

Ms. Candice Clark, Manager of Competitive Pricing in the Office of Regulatory Affairs, has determined that for each of the first five years the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Clark has also determined that for each of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be to encourage competition in the intraLATA toll market by implementing two-PIC 1+ and 0+ equal access for Texas telephone customers. There will be no effect on small businesses as result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Ms. Clark has also determined that for each of the first five years the proposed section is in effect there will be no impact on employment in the geographic area affected by implementing the requirements of the section.

Comments on the proposed rule (16 copies) may be submitted to Paula Mueller, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days after publication. Reply comments may be submitted within 45 days of publication. The commission invites specific comments regarding the costs associated

with, and benefits that will be gained by, implementation of the rule. The commission will consider the costs and benefits in deciding whether to adopt the rule. Additionally, the commission invites specific comments on (i) how the passage of S. 652 (Federal Telecommunications Act of 1996) impacts this rule, (ii) the impact this rule may have on Extended Area Service and Expanded Local Calling, (iii) whether a CTU's recoverable costs should include interest on costs that have been incurred but not yet recovered, and (iv) the pros and cons of requiring that the default intraLATA PIC for an existing customer who does not select an intraLATA PIC will be the customer's interLATA PIC. All comments should refer to Project No. 16133. The commission staff will conduct a public hearing on this rulemaking under Texas Government Code §2001.029 at the commission offices on August 26, 1996, at 10 a.m.

This rule is proposed under the Public Utility Regulatory Act of 1995, Tex. Rev. Civ. Stat. Ann. art. 1146c-O, (Vernon Supp. 1996), §1.101, which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules of practice and procedure; and specifically §3.219(c), which requires that the commission ensure that customers may designate a provider of their choice to carry their "0+" and "1+" intraLATA calls and that equal access in the public network is implemented such that the provider may carry such calls.

Cross Index to Statutes: Public Utility Regulatory Act of 1995, Tex. Rev. Civ. Stat. Ann. art. 1146c-O, §§1.101, 3.219(c) (Vernon Supp. 1996) (PURA 95)

§§23.103. *IntraLATA Equal Access.*

(a) Application. This section applies to certified telecommunications utilities (CTUs) providing local exchange telephone service in Texas. The obligations prescribed by this section may be applied to a CTU only on a bona fide request from an interexchange carrier and shall apply only in areas of the state where interLATA equal access is available.

(b) Purpose. The purpose of this section is to encourage competition in the intraLATA toll market by implementing two-PIC 1+ and 0+ equal access for Texas telephone customers.

(c) Definitions. The following words and terms, when used in this section, shall have the following meaning unless the context clearly indicates otherwise:

(1) Administrative review – a process whereby an implementation plan or application is reviewed by the commission staff and approved or denied by an administrative law judge without an evidentiary hearing and without an order signed by the commission.

(2) IntraLATA equal access – the ability of a caller to complete an intraLATA toll call using his or her provider of choice by dialing 1 or 0 plus an NPA-NXX-XXXX within the LATA.

(6) PIC freeze indicator – an indicator that the end user has requested the CTU to make no changes in the end user's PIC.

(3) Primary Interexchange Carrier (PIC) – the provider chosen by a customer to carry that customer's toll calls.

(4) Two-PIC equal access – a method that allows a telephone subscriber to select one carrier for all 1+ and 0+ interLATA calls and the same or a different carrier for all 1+ and 0+ intraLATA calls.

(5) Year 1 – the calendar year during which intraLATA equal access is first made available to a customer in Texas.

(d) Timing. A CTU shall file with the commission an implementation plan to provide intraLATA equal access as ordered by the commission or no later than 30 days after the later of:

(1) the day the CTU receives a bona fide request from an interexchange carrier to provide intraLATA equal access to a wire center; and

(2) the earliest date that all CTUs are allowed by federal law to provide interLATA telecommunications service in Texas.

(e) Implementation Plan. An implementation plan shall conform to the following requirements:

(1) An implementation plan filed after all CTUs are allowed by federal law to provide interLATA telecommunications service in Texas shall make two-PIC intraLATA equal access available to all interexchange carriers and shall include those areas of the state in which the CTU is certified to provide local exchange service.

(2) A CTU with more than 1 million access lines in the state shall offer intraLATA equal access as follows:

(A) in a central office equipped with a digital switch or an analog switch with full two-PIC capability within five months of the day the implementation plan is due to be filed with the commission pursuant to subsection (d) of this section.

(B) in all other central offices within eight months of the day the implementation plan is due to be filed with the commission pursuant to subsection (d) of this section.

(3) A CTU with fewer than 1 million access lines in the state shall offer intraLATA equal access as follows:

(A) in a central office equipped with a digital switch or an analog switch with full two-PIC capability within nine months of the day the implementation plan is due to be filed with the commission pursuant to subsection (d) of this section.

(B) in all other central offices within 15 months of the day the implementation plan is due to be filed with the commission pursuant to subsection (d) of this section.

(4) At a minimum, an implementation plan shall include a schedule of implementation including, for each wire center:

(A) the Common Language Location Identifier (CLLI) code and exchange name;

(B) the month in which intraLATA equal access will be available;

(C) the type of switch serving the wire center; and

(D) a list of the NPA-NXX's affected by the conversion to intraLATA equal access.

(5) Eighteen copies of the implementation plan shall be filed in the commission's central records office. The commission shall publish notice of the implementation plan in the Texas Register.

(f) Administrative review. An implementation plan filed under this section shall be reviewed administratively unless an administrative law judge, for good cause, determines at any point during the review that the plan should be docketed. Denial of a plan

for failure to meet the requirements of this section does not relieve the CTU of its obligations under subsection (e) of this section.

(g) **Cost Recovery.** A CTU may impose an annual surcharge on intraLATA toll providers to recover over a six-year period its costs of implementing intraLATA equal access. A CTU shall file with the commission by February 15 of each year an application for recovery of its TSLRIC of implementing intraLATA equal access during the previous year. The application shall include detailed cost support for the recoverable costs and shall be reviewed administratively. The surcharge shall be billed by the CTU to intraLATA toll providers using its intraLATA switched access services and shall be due and payable no later than June 30 of each year for recoverable costs incurred during the previous year.

(1) **Recoverable costs.** Costs that are recoverable for a given calendar year include the total service long-run incremental cost (TSLRIC) incurred in that year to provide intraLATA equal access multiplied by a factor equal to 1 minus the CTU's share of that cost. The CTU's share of costs shall be computed by dividing the total intraLATA toll minutes of use provided by the CTU to end users during the year by the sum of total originating intraLATA switched access minutes purchased from the CTU and total intraLATA toll minutes of use provided by the CTU to end users during the year. Recoverable costs shall include, but not be limited to, the following:

(A) costs of processing a customer's initial PIC selection pursuant to subsection (h); and

(B) costs of providing customer notice pursuant to subsection (j) of this section.

(2) **Nonrecoverable costs.** A CTU may not recover the following costs:

(A) costs of converting a wire center in which inter- and intraLATA equal access are introduced simultaneously.

(B) costs of switching equipment whose installation was planned before the implementation plan was filed.

(C) costs of marketing its intraLATA toll services.

(D) lost toll revenue.

(3) The amount of the surcharge payable to a CTU by an intraLATA toll provider shall be computed as provided by this paragraph. An intraLATA toll provider's share of a CTU's recoverable costs for a calendar year shall be computed by dividing the originating intraLATA switched access minutes the intraLATA toll provider purchased from the CTU during the year by the total originating intraLATA switched access minutes purchased from the CTU during the year.

(A) **Year 1:** Ten percent of the CTU's recoverable costs multiplied by the intraLATA toll provider's share of the CTU's recoverable costs for Year 1.

(B) **Year 2:** Thirty-five percent of the CTU's recoverable costs for Years 1 and 2, minus any surcharges collected during Year 1, multiplied by the intraLATA toll provider's share of the CTU's recoverable costs for Year 2.

(C) **Year 3:** Sixty percent of the CTU's recoverable costs for Years 1-3, minus any surcharges collected during Years 1-2, multiplied by the intraLATA toll provider's share of the CTU's recoverable costs for Year 3.

(D) **Year 4:** Eighty-five percent of the CTU's recoverable costs for Years 1-4, minus any surcharges collected during Years 1-3, multiplied by the intraLATA toll provider's share of the CTU's recoverable costs for Year 4.

(E) **Year 5:** One hundred percent of the CTU's recoverable costs for Years 1- 5, minus any surcharges collected during Years 1-4, multiplied by the intraLATA toll provider's share of the CTU's recoverable costs for Year 5.

(h) **PIC Selection.** An end user may select one carrier for all 1+ and 0+ interLATA toll calls and either the same carrier or a different carrier for all 1+ and 0+ intraLATA toll calls.

(1) **Multiple PIC requests.** If a customer has selected more than one intraLATA PIC, the CTU shall process the PIC with the latest customer authorization date.

(2) **Default intraLATA PIC.** A new customer or an existing customer who does not make a choice for an intraLATA PIC within the first six months after intraLATA equal access becomes available from his or her central office shall default to his or her interLATA PIC. If no choice is made for an interLATA PIC, or if the interLATA PIC does not provide intraLATA service in the customer's area, the new customer shall default to the serving CTU, its affiliate or its associated primary toll carrier for intraLATA 1+ and 0+ calls. Balloting of customers shall not be required in areas in which interLATA equal access is available.

(3) **Initial PIC request.** A customer's initial PIC request, made prior to implementation or within six months after implementation of intraLATA equal access, shall be made at no charge. Thereafter, a PIC change charge may be billed to the customer by the CTU at a rate no greater than the rate for the selection of an interLATA PIC. If a customer selects an inter- and intraLATA PIC at the same time, only one charge shall apply.

(4) **Existing customers.** An existing customer who does not make a choice for an intraLATA PIC shall default to his or her interLATA PIC. If no choice is made for an interLATA PIC, or if the interLATA PIC does not provide intraLATA service in the customer's area, the customer shall default to the serving CTU, its affiliate or its associated primary toll carrier for intraLATA 1+ and 0+ calls.

(5) **PIC Freezes.** An account carrying an interLATA PIC freeze indicator shall not be automatically frozen by the CTU for intraLATA PIC selection. A customer may make a written request with a CTU for a freeze of his or her inter- or intraLATA PIC or both.

(i) **Pay telephone equal access.** IntraLATA 0+ and 1+ equal access shall be required for all pay telephones. Premises owners shall be allowed to select both the intraLATA and interLATA PIC for a pay telephone. Nothing in this section shall affect any contract existing between a premises owner and a provider of pay telephone service or an interLATA or intraLATA carrier that is in force as of the effective date of this section.

(j) **Customer Notice.** A CTU shall provide notice by direct mail to affected customers of implementation of intraLATA equal access. The text of the notice shall state: "The Public Utility Commission of Texas has directed all local telephone companies to give residential and business customers the option of selecting an intraLATA (local toll) 1+ and 0+ long distance company other than [insert name of CTU]. Texas is divided into major long-distance

calling areas called LATAs. (See enclosed map.) Currently, [insert name of CTU] carries all 1+ and 0+ calls within a LATA. After [insert implementation date] long distance calling within the LATA will be open to competition. With this change, customers will have the option of selecting a long distance company for intraLATA 1+ and 0+ calling. "Beginning on [insert date] you may select an intraLATA (local toll) long- distance company at no charge by notifying your local telephone company or by directly contacting the long distance carrier of your choice. Your initial intraLATA selection will be made at no charge if made before [insert date]. Any change to your intraLATA carrier after that time or after your initial selection will incur a [\$ insert charge] change charge."

(k) Expiration. The provisions of this section shall expire December 31, 2002.

(l) Waiver. After notice and hearing, and subject to the requirements of law, the commission may waive any provision of this section for good cause.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610043

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Earliest date of adoption: August 23, 1996

For further information, please call: (512) 458-0100



Part III. Texas Alcoholic Beverage Commission

Chapter 33. Licensing

License and Permit Surcharges

16 TAC §33.23

The Texas Alcoholic Beverage Commission proposes an amendment to §33.23, concerning the annual surcharges for all holders of permits and licenses issued by the commission as required by the Texas Alcoholic Beverage Code, §5.50(b), effective September 1, 1993. The section is amended by changing surcharges for all licenses and permits.

Jeannene Fox, Director of Licensing and Compliance has determined, based upon an estimation of the number of licenses and permits the commission will issue within the fiscal year that for state government the estimated revenue for each of the first five years is \$1,200,000, with estimated additional cost being insignificant. There will be no fiscal implications for units of local government.

Jeannene Fox also has determined the public benefit cost is that for each year of the first five years the regulated alcoholic beverage industry will bear the entire amount of the cost of regulation by the Texas Alcoholic Beverage Commission. The effect on small businesses cannot be determined but is considered to be minimal and would not anticipate having a

disproportionate impact on those in the alcoholic beverage industry. The anticipated economic cost to persons required to comply is the applicable surcharge.

Comments on the proposal may be submitted to Jeannene Fox, Director of Licensing and Compliance, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711.

The amendment is proposed under the Texas Alcoholic Beverage Code, Subchapter B, §5.31, which provides the Alcoholic Beverage Commission with the authority to prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code and §5.50(b) which specifically mandates the surcharges.

Cross reference to statute: Texas Alcoholic Beverage Code, §11.32, §11.35 and §61.35.

§33.23. Alcoholic Beverage License and Permit Surcharges.

(a) A surcharge of all original or renewal permit or license fees set by the Texas Alcoholic Beverage Code shall be levied against all license and permit holders as follows:

Figure 1: 16 TAC §33.23(a)

(1)-(2) (No change.)

(b)-(d) (No change.)

(e) This section shall take effect **October 1, 1996** [September 1, 1995].

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610044

Doyne Bailey

Administrator

Texas Alcoholic Beverage Commission

Earliest date of adoption: August 23, 1996

For further information, please call: (512) 206-3204



Part IX. Texas Lottery Commission

Chapter 401. Administration of State Lottery Act

Subchapter E. Retailer Rules

16 TAC §401.368

The Texas Lottery Commission proposes an amendment to §401.368, concerning instant ticket vending machines. The amendments are being proposed to clarify the circumstances under which a lottery sales agent may obtain and retain an instant ticket vending machine.

Richard Sookiasian, Budget Analyst, has determined that, for each year of the first five-years that the rule will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Sookiasian, also has determined that, for each year of the first five-years that the rule will be in effect, the public benefit expected as a result of adoption of the proposed rule

will be clear guidance to lottery sales agents regarding the use of instant ticket vending machines. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Ridgely C. Bennett, Staff Attorney, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The amendment is proposed under Texas Government Code §466.015, which authorizes the Texas Lottery Commission to adopt rules governing the establishment and operation of the lottery and Texas Government Code §467.102, which authorizes the Texas Lottery Commission to adopt rules for the enforcement and administration of Texas Government Code, Chapter 467 and the laws under the Commission's jurisdiction.

Texas Government Code, Chapter 466 is affected by this section.

§401.368. *Instant Ticket Vending Machines.*

(a) No sales agent may distribute or sell Texas Lottery instant game tickets from an instant ticket vending machine, except those instant ticket vending machines supplied and placed by the Texas Lottery. For purposes of this section an instant ticket vending machine is defined as a ticket dispensing machine that dispenses Texas Lottery instant [ticket] game tickets without the assistance of a sales agent's personnel.

(b) Instant ticket vending machines may be placed by the Texas Lottery in a sales agent's location based upon criteria established by the executive director. The criteria may include consideration of the location of the sales agent, the type of the sales agent's location, e.g., grocery store, the size of the sales agent's location, and a minimum sales criteria and shall be provided to the sales agents prior to implementation of such criteria.

(c) A lottery sales agent must maintain a minimum sales criteria established by the executive director in order to obtain and retain an instant ticket vending machine. A sales agent who does not maintain minimum sales in accordance with such sales criteria may be placed in a sales review probation unless good cause exists as determined by the executive director. After the sales agent's probation period has expired, the sales agent's sale of lottery instant game tickets shall be reviewed. If the sales agent has not maintained the minimum sales in accordance with the minimum ticket sales criteria during such probation, the agency's staff shall remove the instant ticket vending machine.

(d) The minimum sales criteria established by the executive director shall be provided to the sales agents at least 30 days prior to implementation of such minimum sales criteria.

(e) Instant ticket vending machines may only be placed within the sales agent's location in a site approved by the Texas Lottery.

(f) A lottery sales agent shall carry a minimum of eight instant games at all times and shall keep the instant ticket vending machine supplied with eight instant games.

(g) A lottery sales agent shall carry and display a minimum of four additional instant games for a secondary prominent instant ticket vending machine location.

(h) A lottery sales agent shall redeem any lottery prize of less than \$600.

(i) A lottery sales agent shall certify whether the sales agent location is greater than one thousand feet from any pre-school, elementary school, middle school or high school.

(j) A lottery sales agent location within one thousand feet from any pre school, elementary school, middle school or high school shall be equipped only with an instant ticket vending machine(s) containing a remote shut off device.

(k) A lottery sales agent shall keep the instant ticket vending machine stocked with printer supplies.

(l) A lottery sales agent shall provide designated sales reports to the Texas Lottery.

(m) A lottery sales agent shall undergo required training relating to the use and maintenance of instant ticket vending machines.

(n) If a lottery sales agent loses or misplaces the keys to an instant ticket vending machine, or if the keys to an instant ticket vending machine are stolen, the lottery sales agent responsible shall pay \$100.00 for each occasion to cover the costs of the service call and hardware associated with the installation of new locks on the instant ticket vending machine.

(o) A lottery sales agent shall allow service technicians access to the instant ticket vending machine during normal business hours to allow service and repair of the instant ticket vending machine.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 11, 1996.

TRD-9609986

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Earliest date of adoption: August 23, 1996

For further information, please call: (512) 323-3791

TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 409. Medicaid Programs

Subchapter D. Home and Community-based Services

25 TAC §409.102

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Mental Health and Mental Retardation or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes the repeal of §409.102, relating to home and community-based services. The repeal accommodates the contemporaneous proposal of new §409.102 in this issue of the *Texas Register*.

The proposed repeal would enable the addition of a new section to Chapter 409, Subchapter D.

Don Green, chief financial officer, has determined that for each year of the first five years the repealed section as proposed will be in effect, there is no anticipated fiscal impact. There will be no additional fiscal cost to state or local government or small businesses as a result of administering the rules as proposed. There will be no significant local economic impact. There is no anticipated cost to individuals required to comply with the proposed repeal.

A public hearing will be held at 9:00 a.m. on August 1, 1996, in the TDMHMR Central Office auditorium at TDMHMR Central Office, 909 West 45th Street, Austin, Texas, to accept oral and written testimony concerning the proposal. Persons requiring an interpreter for the hearing impaired should notify Laura Thomas, Office of Policy Development, at least 72 hours prior to the hearing by calling (512) 206-4516.

Questions about the content of the proposal may be directed to Mr. McKenney. Comments on the proposed repeal may be submitted to Linda Logan, director, Policy Development, Texas Department Mental Health and Mental Retardation, P.O. Box 12668, Austin, TX 78711-2668, within 30 days of publication.

The repeal is proposed under the Health and Safety Code, §532.015(a), which provides the Texas Mental Health and Mental Retardation Board with broad rulemaking authority; and under the provisions of Texas Government Code, §531.021, which provides the Texas Health and Human Services Commission with the authority to administer federal medical assistance funds.

The repeal affects Texas Human Resources Code, §§32.001-322.040, and Texas Civil Statutes, Article 4413(502), §16.

§409.102. Right To Appeal.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on July 15, 1996.

TRD-9610103

Ann Utley

Chairman, Texas MHMR Board

Texas Department of Mental Health Mental Retardation

Earliest possible date of adoption: August 23, 1996

For further information, please call: (512) 206-5283



25 TAC §409.101 §409.102

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes amendments to §409.101 and new §409.102, relating to home and community-based services (HCS). Existing §409.102 is contemporaneously proposed for repeal in this issue of the *Texas Register*.

The proposed amendments to §409.101 would incorporate the appeal rights of applicants or clients who are denied eligibility for HCS, previously located in existing §409.102. Proposed new §409.102 would delineate a standardized process for applicants to access HCS through the local mental retardation authority (MRA). The applicant referral process designates the local MRA as responsible for receiving applicants' request for enrollment into these services, evaluating applicants' current service and support needs, assisting applicants in selecting and enrolling with an eligible service provider, and maintaining a referral list of applicants seeking these services.

Don Green, chief financial officer, has determined that for each year of the first five-year period the proposed new section is in effect there will be for fiscal year (FY) 1997 a total impact of \$100,000, of which \$500,000 is Federal and \$500,00 is State. For FY 1998 there will be a total impact of \$103,677, of which \$51,838 is Federal and \$51,838 is State. For FY 1999 there will be a total impact of \$107,479, of which \$53,739 is Federal and \$53,739 is State. For FY 2000 there will be a total impact of \$111,420, of which \$55,710 is Federal and \$55,710 is State. For FY 2001 there will be a total impact of \$115,506, of which \$57,753 is Federal and \$57,753 is State. For FY 2002 there will be a total impact of \$119,742, of which \$59,871 is Federal and \$59,871 is State. There is no anticipated fiscal impact for the proposed amended section. There is no anticipated local economic impact.

Ernest McKenney, director, Medicaid Administration, has determined that for each year of the first five years the amendments are in effect the public benefit anticipated will be increased facilitation and efficiency in HCS enrollment for applicants requesting these services and assurance that services are provided to those most in need. There is no anticipated economic cost to persons required to comply with the proposed amendments. There will be no effect on small businesses.

A public hearing will be held at 9:00 a.m. on August 1, 1996, in the TDMHMR Central Office auditorium at TDMHMR Central Office, 909 West 45th Street, Austin, Texas, to accept oral and written testimony concerning the proposal. Persons requiring an interpreter for the hearing impaired should notify Laura Thomas, Office of Policy Development, at least 72 hours prior to the hearing by calling (512) 206-4516.

Questions about the content of the proposal may be directed to Mr. McKenney. Comments on the proposed sections may be submitted to Linda Logan, director, Policy Development, Texas Department Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The sections are proposed under the Health and Safety Code, §532.015(a), which provides the Texas Mental Health and Mental Retardation Board with broad rulemaking authority; and under the provisions of Texas Government Code, §531.021, which provides the Texas Health and Human Services Commission with the authority to administer federal medical assistance funds.

The section affects Texas Human Resources Code, §§32.001-322.040, and Texas Civil Statutes, Article 4413(502), §16.

§409.101. Client Eligibility Criteria.

(a) To be determined eligible by the Texas Department of Mental Health and Mental Retardation (TDMHMR) for Home and Community-based Services (HCS), an applicant must:

(1)-(2) (No change.)

(3) be under age 18 and reside with parents or spouse. Clients under 18 must satisfy all of the following:

(A)-(C) (No change.)

(D) have income and resources which meet the requirements of the SSI program; [or]

(4) be an individual under 19 years of age for whom the Texas Department of Protective and Regulatory Services (TDPRS) assumes financial responsibility, in whole or in part (not to exceed Level II foster care payment), and who is being cared for in:

(A) a family foster home which is licensed or certified and supervised by TDPRS, or

(B) a family foster home which is licensed or certified and supervised by a licensed public or private nonprofit child placing agency[.];[or]

(5) be a member of a family who receives full Medicaid benefits as a result of qualifying for Aid to Families with Dependent Children; or

(6) be eligible for SSI benefits in the community, except on the basis of income, and meet the special institutional income limit for Medicaid benefits in Texas without regard to spousal income.

(b) To be determined eligible by TDMHMR for HCS services, clients must also:

(1) meet the ICF-MR I, V, or VI level of care criteria as determined by TDHS according to applicable state and federal regulations and as verified by a current Level of Care (LOC) Assessment form.

(A) An admission Level of Care Assessment (or reassessment) form signed by TDHS is considered valid for enrollment purposes by TDMHMR for 364 days from the date of issuance.

(B) Reevaluations of ICF-MR level-of-care criteria are performed annually by the TDMHMR. An initial reevaluation of level of care must be performed no later than 364 calendar days from the date of enrollment. Subsequent level-of-care reevaluations must be performed no later than 364 calendar days from the effective date of the prior level of care assignment.

(C) In order for payment to be considered for days that a client was receiving HCS services but did not have a current LOC assessment form in place, the provider must follow the process described in §409.119 of this title (relating to Gaps in Level- of-Care Coverage[.]) ;

(2) live in the contracted provider's geographic catchment area. If an applicant has been removed from his home and community because of ICF-MR institutional placement, he may be considered for placement in the HCS program even though his original county of residence is outside the provider's geographic catchment area[.];

(3) have had a determination of mental retardation performed according to state law prior to enrollment into the HCS program[.]; **and**

(4) have an Individual Plan of Care for Home and Community-based Services form developed by the providers' interdisciplinary team; the team must be composed of a case manager and nurse who meet the qualifications specified in the waiver, and the individual or legally authorized representative.

(A) The Individual Plan of Care for Home and Community-based Services form must specify the type of waiver services required to keep an individual in the community, the units of waiver services, and their frequency and duration.

(B) The Individual Plan of Care for Home and Community-based Services form must be signed and dated by the interdisciplinary team prior to implementation. The interdisciplinary team must certify in writing that the waiver services authorized on the Individual Plan of Care form are necessary to avoid ICF-MR institutional placement and are appropriate to meet the applicant's needs in the community, as recommended. **The individual plan of care must be based upon the community support analysis developed by the MRA according to §409.102 of this title relating to Process for Applicant Referral to Contracted HCS Provider Agencies.**

(C) The initial Individual Plan of Care for Home and Community-based Services form must be approved by TDMHMR. The Individual Plan of Care form must be updated by the provider at least annually. Revisions and updates to the Individual Plan of Care form are subject to review and approval during annual on-site certification and other reviews conducted by TDMHMR. Any gaps in the coverage periods of the individual plans of care result in loss of payment to the provider.

(c) The estimated annual cost of **providing the services listed on** the applicant's Individual Plan of Care for Home and Community-based Services form must not exceed 125% of the estimated annualized expenditure for ICF/MR services approved by the Health Care Financing Administration (HCFA) in the waiver formula calculations.

(d) Enrollment into the HCS Program is limited to the number of **individuals** [consumers] in specified target groups approved by (HCFA).

(e) Any applicant or client who is denied Home and Community-based Services is entitled to a fair hearing conducted by TDHS according to applicable TDHS rules. Requests for hearings should be submitted to TDMHMR.

§409.102. Process for Applicant Referral to Contracted HCS Provider Agencies.

(a) Beginning September 1, 1996, the local Mental Retardation Authority designated by the TDMHMR for the geographic area in which the applicant resides will receive all requests from individuals seeking enrollment into the HCS program. The MRA will be responsible for:

(1) developing, in accordance with departmental guidelines, a community support analysis for each HCS applicant which includes at a minimum:

(A) a determination of which HCS service components the individual will need to receive in order to continue living in the community;

(B) an estimate of the annual number of service units of each component identified in paragraph (1)(A) of this section, and an estimate of the total annual cost of services;

(C) an evaluation of the individual's current services and supports, identifying those that would continue to be available if the individual enrolled in the HCS program;

(D) a determination of where the applicant would prefer to receive HCS services; and

(E) a determination of the services and supports necessary for the individual to continue community living if HCS services are not immediately available to the applicant or while program eligibility is being determined; and

(2) informing the individual of the available HCS providers in the individual's preferred service areas, as identified in paragraph (a)(1)(D) of this section, and facilitating the individual's enrollment in HCS. The MRA will:

(A) assist the individual in selecting potential HCS provider agencies or, in the event the individual desires services outside the area served by the MRA, refer the individual to the MRA serving the area preferred by the individual;

(B) with the individual's consent, distribute to potential HCS provider agencies the most current community support analysis, including a determination by TDHS of Medicaid financial eligibility for HCS according to §409.101(a) of this title, and a current LOC determination as described in §409.101(b) of this title relating to Client Eligibility Criteria;

(C) arrange for preselection meetings/visits with potential providers as desired by the individual;

(D) assure that the individual's choice of a specific HCS provider program is documented and that the original signed form is retained by the MRA in the individual's record and a copy of the original form is sent to the selected HCS provider and to Medicaid Administration, TDMHMR;

(E) participate as a member of the interdisciplinary team, as described in §409.101 of this title, which develops the initial individual plan of care for HCS services; and

(F) provide documentation necessary for the selected provider to submit an enrollment request to TDMHMR. Notification of TDMHMR's approval or denial of HCS enrollment will be sent by TDMHMR to the applicant, the provider, and to the responsible MRA.

(b) The MRA will maintain an up-to-date list of individuals waiting for HCS services in the geographic area served by the MRA. The MRA will assign the individual's placement on the referral list.

(1) The MRA will compile a referral list, chronological by date of application, of individuals requesting HCS program services and who live within the local service area.

(2) Individuals who have lost or are at imminent risk of losing their natural supports will be given priority over other individuals on the list. Applicants or their representatives must notify the MRA of any change that affects service needs.

(3) The MRA may remove an individual's name from the referral list only:

(A) with the written permission of the individual or the individual's representative;

(B) if it receives written evidence that the person is deceased;

(C) with documentation that the individual moved out of the local service area; or

(D) after TDMHMR has denied the individual's enrollment and the individual has had an opportunity to exercise his right to appeal according to §409.101(e) of this title.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on July 15, 1996.

TRD-9610104

Ann Utley

Chairman, Texas MHMR Board

Texas Department of Mental Health Mental Retardation

Earliest possible date of adoption: August 23, 1996

For further information, please call: (512) 206-5283

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resources Conservation Commission

Chapter 122. Federal Operating Permits

Subchapter B. Permit Requirements

Permit Application

30 TAC §122.135

The commission proposes new §122.135, concerning an exemption from the requirement in Title 30, Texas Administrative Code, Chapter 122 (30 TAC Chapter 122) to establish actual and presumptive grandfather emission rates. The Operating Permits Division is preparing to begin the review of federal operating permit applications upon delegation by the United States Environmental Protection Agency.

The requirement for owners or operators of a site subject to the federal operating permits program to submit grandfather emission rates required within §122.132(a)(5) is a state-only requirement, and does not implement any part of Title V or Title 40, Code of Federal Regulations, Part 70 (40 CFR 70). As a result of Senate Bill 1126 enacted by the 74th Texas Legislature and the subsequent changes made to Title 30, Texas Administrative Code, Chapter 116 (30 TAC Chapter 116), the agency has decided to address the establishment of allowable emissions for qualified grandfathered facilities solely through the provisions of 30 TAC Chapter 116. This exemption does not affect the state-only requirements to identify grandfather emission units and to list the preconstruction authorizations in the application for the emission units that are not grandfathered. These two state-only requirements are not applicable requirements according to 30 TAC Chapter 122. Therefore, the proposed new §122.135 pro-

vides an exemption from the requirement to submit grandfather emission rates in the operating permit application.

The rule regarding grandfather information is proposed for the entire State of Texas.

The proposed §122.135, concerning Grandfather Requirements, provides owners or operators with sites subject to 30 TAC Chapter 122 an exemption from the state-only requirement regarding the submission of grandfather emission rates.

The commission has prepared a Takings Impact Assessment for this rule proposal pursuant to Texas Government Code, §2007.043. The purpose of this rulemaking is to provide owners or operators with an exemption from having to submit grandfather emission rates in their federal operating permit application. This proposed rule will substantially advance this specific purpose because it will codify the exemption which may be used by the owners or operators who are required to submit an application for a federal operating permit. The promulgation and enforcement of this rule will not burden private real property because this rulemaking proposal provides an exemption from an existing requirement.

Stephen Minick, Strategic Planning and Appropriations, has determined that for each year of the first five-year period the proposed section is in effect, there will be no significant costs to state government or units of local government as a result of administration or enforcement of the section. The commission may realize some reduced demand on agency resources and a related cost savings as a result of owners or operators using the exemption proposed. The actual fiscal implications to the commission have not been determined at this time.

Mr. Minick also has determined that for each year of the first five years the proposed section is in effect, the public benefit anticipated as a result of enforcement of and compliance with the section will be more cost-effective regulation of sources of air emissions. The effect on owners or operators subject to this section will be a reduction in the potential costs of application for a federal operating permit and the operation of such permitted facilities. The actual fiscal impact on any emission unit at a site subject to the provisions of 30 TAC Chapter 122 cannot be easily determined. It is estimated, however, that owners or operators will realize a reduction in cost associated with preparing an operating permit application of at least 5% as a result of providing the proposed exemption. The potential cost savings will affect small businesses on the same basis as any larger business and will vary with the grandfather status of the emission unit(s) at a site. There are no economic costs anticipated for any owners or operators required to comply with this section as proposed.

A public hearing on this proposal will be held August 19, 1996, at 2:00 p.m. in Room 2210 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to each hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96137-122-AI. Comments must be received by 5:00 p.m., August 23, 1996. For further information or questions concerning this proposal, contact Kevin Bloomer of the Operating Permits Division, Office of Air Quality, (512) 239-5730.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

The new section is proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

The proposed new section implements Texas Health and Safety Code, §382.051(b)(2) and §382.054.

§122.135. Grandfather Requirements.

The portions of this chapter, specifically §122.132 of this title (relating to Application and Required Information), which address the requirements dealing with the submission of actual or presumptive grandfather emission rates are not applicable to the owners or operators of sites subject to the federal operating permits program. Sites subject to the federal operating permits program are identified in §122.130 of this title (relating to Responsibility to Apply).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 10, 1996.

TRD-9610105

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: October 16, 1996

For further information, please call: (512) 239-1966



Chapter 330. Municipal Solid Waste

The Texas Natural Resource Conservation Commission (commission) proposes an amendment to §330.602, concerning Municipal Solid Waste Disposal Fees for Landfills and new §330.804, concerning The Use of Tire Shreds in Landfills. These proposed rules were adopted on an emergency basis by the commission and published in the March 20, 1996, issue of the *Texas Register* (21 TexReg 1303) as necessary to prevent imminent peril to the public health, safety or welfare. The commission has received numerous reports from state, city and county health officials that whole tires are piling up at generator locations. The concerns associated with this problem include fire, the creation of breeding grounds for mosquitoes, snakes and rodents, and human health problems, as well as traffic safety due to tires piling up alongside roadways. Whole tire piles are easily ignited and extremely difficult to control. An uncontrolled burning tire pile releases toxic chemicals into the air and may also result in contamination to groundwater.

The dangerous conditions involving the overabundance of whole tire piles is connected in large part to the fact that many waste tire processors are close to or over authorized tire shred storage capacity. This situation intensified significantly after January 1, 1996, when the end-use market requirement became a condition of reimbursement for processors. In spite of significant efforts to promote the development of end-use markets for whole tires and tire shreds, only 37% of the scrap tires generated in Texas are being forwarded to end use markets. Due to the lack of sufficient end-use markets to meet the volume of tires generated, tire shreds have piled up at storage sites. While significant regulatory requirements designed to protect human health, safety and the environment are imposed on tire shred storage sites, eliminating the piles through recycling is the best mechanism to protect public health and the environment. Although significant safeguards exist while a facility is operating within its authorized limits, storage facility health and safety requirements are not designed to afford any protection once a facility exceeds its authorized capacity. The utilization of tire shreds in landfills will enable the continued collection of tires, because storage space will be made available with the movement of the existing shred piles. This will in turn reduce whole tire piles and the hazards these piles represent.

Under the amended section, owners and operators of municipal solid waste landfills who utilize tire shreds in their landfill design could receive a reduction in the fee they pay for waste disposal. This is a one-time, 50% (62.5 cents per ton) reduction in the fee corresponding to the number of tire-shred tons used in the landfill design. Therefore, a landfill using 15 tons of tire shreds in an approved component of landfill design would receive a 50% reduction in its Municipal Solid Waste Disposal Fee for 15 tons of municipal waste in the quarterly billing period following use of the tire shreds. High transportation costs have made the use of tire shreds cost prohibitive for many landfill owners and operators. This fee reduction is designed to mitigate the cost differential between tire shreds and other more commonly used material. Utilizing tire shreds as part of the landfill design is an approved method for recycling tires. There are currently several landfills throughout the state which utilize tire shreds. With the reduction in the disposal fee, it is anticipated that 950,000 tons of tire shreds could be utilized and thus recycled in landfill drainage layers, protective covers or final covers. This reduction in the Municipal Solid Waste Disposal Fee will serve as an incentive to encourage the recycling of tire shreds stored in waste tire storage facilities throughout the state. In authorizing the fee reduction for the use of tire shreds in landfill design, the agency is in no manner approving or advocating the use of any particular method or process for the use of tire shreds.

While this rule would not result in a direct use of money from the disposal fee fund since it would be in the form of a reduction on the amount that would otherwise be paid by a landfill into the fund, the authorized uses set forth in §361.014 are consistent with what the solid waste disposal fee reduction rule would promote.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period these sections as proposed are in effect there will be fiscal implications as a result of enforcement and administration of the sections. Fiscal

implications are anticipated only for calendar year 1996. The effects on state government will be a minor increase in workload associated with the review and approval of proposals for use of tire shreds in landfills. These minor increases in workload are not anticipated to have significant cost implications for the agency and will be satisfied within existing budgeted resources. The implementation of the proposed provisions could also result in the reduction in revenues collected by the commission from fees on the disposal of municipal solid waste. Income to the municipal solid waste disposal fee fund could be reduced up to a maximum of approximately \$600,000 in calendar year 1996. Actual revenue reductions will depend on the extent to which eligible operators of solid waste disposal facilities utilize the opportunities for reducing disposal fees contained in this proposal and could be significantly less than the maximum amount anticipated. Any reduction in revenue within the limits anticipated will reduce the balances in the municipal solid waste disposal fee fund but will have no effect on funds appropriated to the commission or budgeted to commission programs or other agencies under contract to the commission. There are no cost increases or reductions in revenue anticipated for units of local government. Local governments operating municipal solid waste disposal facilities and utilizing these provisions may mitigate the higher costs of using tire shreds in landfill design and may realize some cost savings as a result of the financial incentives proposed. While the net effects of fee reductions compared to cost differences in the use of tire shreds cannot be determined, it is not anticipated that the proposed rule will have significant fiscal implications for any affected landfill operator.

Mr. Minick has also determined that for each year of the first five years these sections as proposed are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be improvement in the end use of waste tires, reductions in the number of processed waste tires in surface storage facilities, enhanced incentives for the collection, transportation and processing of waste tires being generated within the state and reductions in the risk to public health and safety posed by long term storage of processed tire shreds and tire piles, including the risks associated with fire and disease vectors. There are no economic costs anticipated for any person, including any small business, required to comply with the sections as proposed. The proposed rules contain no mandatory requirements and participation under these sections is an election at the discretion of eligible landfill operators. Implementation of these sections may have indirect benefits for waste tire processors, storage facilities, transporters, and generators by reducing the current stock of processed tires in storage and stimulating demand for continued collection and end use of waste tires.

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated Section 2007.043. The following is a summary of that Assessment. The specific purpose of the rule is to provide procedures that will allow the commission to prevent imminent peril to the public health, safety, and welfare by establishing an incentive for the beneficial use of shredded tires in landfills. Due to the lack of sufficient end-use markets to meet the volume of tire shreds produced, tire shreds have piled up at storage sites, and whole tires are piling up at generator locations resulting in numerous reports from state, county and city health officials about

their concerns of the threat of fires, creation of breeding grounds for mosquitos, snakes and rodents, and their attendant human health nuisances and problems, as well as traffic safety due to tires piling up alongside roadways. Because of those concerns, the commission adopted emergency rules on March 20, 1996, to temporarily alleviate the problems pending adoption of the permanent rules now being proposed through the normal rule-making process. When tire storage sites are filled to capacity, tire processors cannot legally accept additional tires for shredding and, therefore, cannot collect waste tires from generators. The rules will substantially advance this specific purpose by allowing landfill operators to use tire shreds in their landfills as part of the leachate collection system drainage layer, protective cover, or final cover as a means of reducing the amount of tire shreds in storage which prevent tire processors from shredding additional tires. The rules only provide an incentive to expedite the elimination of waste tire piles and therefore do not place a burden on any individual. These rules make existing rules less stringent only to the extent that they provide for a reduction in fees paid and allow the use of an additional type of material for landfill construction. Since transportation of the tire shreds to a landfill location is expensive, the commission will provide an incentive by reducing the amount of solid waste disposal fees paid to the commission by 50% for the equivalent tonnage of tire shreds used at the landfill. Promulgation and enforcement of these rules will not affect private real property because the rules pertain only to a new incentive to increase the level of collection, shredding, and beneficial use of waste tires, all of which are currently authorized. The rules will not create a burden on private real property because they are specifically designed to remove any threat to its safety or its environment by providing an incentive to remove any nearby waste tire piles that could result in uncontrolled fires.

Written comments may be mailed to Heather Evans, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96123-330-WS. Comments must be received by 5:00 p.m., 30 days from the date of publication of this proposal in the *Texas Register*. For further information or questions concerning this proposal, please contact Jennifer A. Sidnell, Manager, Automotive Waste Management Section, Municipal Solid Waste Division, at (512) 239-6679.

Subchapter P. Fees and Reporting

30 TAC §330.602

The amendment is proposed under Health and Safety Code §361.024, which gives the commission the authority to adopt rules consistent with Chapter 361, Health and Safety Code, and under Health and Safety Code, §361.484, which gives the commission the authority to adopt rules necessary to implement Subchapter P, Chapter 361, Health and Safety Code, relating to the Waste Tire Recycling Program.

The amendment implements the Health and Safety Code, §§361.013, 361.476 and 361.477.

§330.602. Fees.

(a) Landfilling. Each operator of a facility in Texas that disposes of municipal solid waste by means of landfilling, including landfilling of incinerator ash, is required to pay a fee to the

commission for all waste received for disposal. The fee rate for waste disposed of by landfilling is dependent upon the reporting units used. It is recommended that waste amounts be measured and reported in short tons (2,000 pounds); however, reporting by cubic yards is acceptable.

(1)-(7) (No change.)

(8) **Fee Reduction.** The fee may be reduced in accordance with §330.804 of this title (relating to The Use of Tire Shreds in Landfills) through December 31, 1996, upon which date this paragraph will expire.

(b)-(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610018

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: September 11, 1996

For further information, please call: (512) 239-1970



Subchapter R. Management of Whole Used or Scrap Tires

30 TAC §330.804

The new section is proposed under Health and Safety Code, §361.024, which gives the commission the authority to adopt rules consistent with Chapter 361, Health and Safety Code, and under Health and Safety Code, §361.484, which gives the commission the authority to adopt rules necessary to implement Subchapter P, Chapter 361, Health and Safety Code, relating to the Waste Tire Recycling Program.

The new section implements the Health and Safety Code, §§361.013, 361.476 and 361.477.

§330.804. *The Use of Tire Shreds in Landfills.*

To provide an incentive for the use of tire shreds in landfills, but still protect the viability of the municipal solid waste fund, the following procedures are established through December 31, 1996, upon which date this section shall expire:

(1) General. Owners and operators of municipal solid waste landfills who, after January 1, 1996, received commission or executive director approval to utilize tire shreds in their landfills as part of the drainage layer, protective cover or final cover, may request a one-time 50% reduction in their solid waste disposal fee of \$1.25 per ton, for every ton of tire shreds utilized. In addition, municipal solid waste landfill owners and operators who begin construction of a landfill in which the use of tire shreds for any of the above-listed uses had been previously authorized but delivery of said tire shreds occurred after January 1, 1996, may request a one-time 50% reduction in their solid waste disposal fee of \$1.25 per ton, for every ton of tire shreds utilized.

(2) Maintenance of the municipal solid waste fund. In order to ensure the continued viability of the Municipal Solid Waste

Fund, the executive director may, on a prospective basis, suspend the reduction in solid waste disposal fees, or reduce the percentage of the reduction.

(3) Fee reduction application. To receive the reduction in the fee, owners and operators shall apply to the executive director utilizing the forms provided by the executive director. Applications shall be reviewed in the order in which they are submitted.

(4) Special requirements. The executive director may impose reasonable requirements on landfill owners or operators who apply to the Texas Natural Resource Conservation Commission for a reduction under this section, as necessary, to carry out the objectives of the section.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610019

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: September 11, 1996

For further information, please call: (512) 239-1970

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter V. Franchise Tax

34 TAC §3.574

(Editor's Note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §3.574, concerning \$100 prepayment. The rule is being repealed because the section of law that it interpreted (Tax Code, §171.155) has been repealed.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the repeal will be in effect there will be no revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the rule will be in clarification of comptroller rules related to the franchise tax. This repeal is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the repeal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeal implements the repeal of Tax Code, §171.155.

§3.574. \$100 Prepayments.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 11, 1996.

TRD-9609963

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: August 23, 1996

For further information, please call: (512) 463-4028

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 15. Drivers License Rules

Application Requirements-Original, Renewal, Duplicate, Identification Certificates

37 TAC §15.45

The Texas Department of Public Safety proposes new §15.45, concerning the requirement of thumbprints on application for original, renewal, or duplicate driver's licenses and personal identification certificates.

New §15.45 will clarify that thumbprints (or alternatively, index prints) are required on application for original, renewal, or duplicate driver's licenses and personal identification certificates. Currently, an applicant for an original license is statutorily required to provide a thumbprint. Senate Bill 1252, passed by the 74th Legislature, 1995, authorized the department to require applicants for renewal or duplicate driver's licenses or personal identification certificates to provide the same information as may be required on application for original drivers license.

Tom Haas, Chief of Finance, has determined that for each year of the first five-year period the rule is in effect there will be no appreciable effect on the state's general revenue fund. here will be no fiscal implications for local government as a result of enforcing or administering the rule.

Mr. Haas also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be increased security of the drivers license and personal identification documents. There is no anticipated cost to small or large businesses. There is no additional cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to John C. West, Jr., Chief of Legal Services, Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001, (512) 424-2890.

The new section is proposed pursuant to Texas Government Code, §411.006(4), which authorizes the director of the Department of Public Safety to adopt rules, subject to approval of the Public Safety Commission, considered necessary for the control of the department.

Texas Transportation Code, §521.142, Texas Civil Statutes, Article 6687b, §6(d) to be recodified as Texas Transportation Code, §521.1425, Texas Civil Statutes, Article 6687b, §14A to be recodified as Texas Transportation Code, §521.101(d) and Texas Transportation Code, §521.274 are affected by this proposal.

§15.45. Thumbprints.

An application for original, renewal, or duplicate driver license or personal identification certificate must include the thumbprints of the applicant or, if the thumbprints cannot be taken, the index fingerprints of the applicant. Where an applicant is permitted to renew a driver's license by mail and does renew by mail, this section does not apply.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 8, 1996.

TRD-9609978

John R. Wilson

Director

Texas Department of Public Safety

Earliest date of adoption: August 23, 1996

For further information, please call: (512) 424-2890



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 12. Special Nutrition Programs

The Texas Department of Human Services (DHS) proposes amendments to §§12.2, 12.3, 12.5, 12.8, 12.9, 12.15, 12.16, 12.20, 12.24, 12.25, and 12.115, concerning definitions of program terms, eligibility of contractors and facilities, application for program benefits - contractors, financial management, reporting and record retention, reimbursement methodology for Child and Adult Care Food Program (CACFP), advance payments, training/technical assistance, sanctions and penalties, denials and terminations, and reimbursement methodology for the Summer Food Service Program (SFSP), in its Special Nutrition Programs (SNP) chapter. The purpose of the amendments is to make improvements in the Child and Adult Care Food Program and to extend the date by which claims must be filed in the CACFP and the SFSP. The program improvement changes include eligibility and performance standards for day care home sponsors, sanctions for noncompliance with program administrative requirements, and the required submission of data ele-

ments by which SNP staff will make a risk analysis of program contractors.

Terry Trimble, interim commissioner, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Trimble also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be increased efficiency and increased accountability for public funds. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the proposed sections is an additional cost of \$400 for fiscal year (FY) 1997; \$400 for FY 1998; \$400 for FY 1999; \$400 for FY 2000; and \$400 for FY 2001.

Questions about the content of the proposal may be directed to Keith N. Churchill at (512) 467-5837 in DHS's Special Nutrition Programs. Written comments on the proposal may be submitted to Supervisor, Rules Unit, Media and Policy Services-334, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

Child and Adult Care Food Program

40 TAC §§12.2, 12.3, 12.5, 12.8, 12.9, 12.15, 12.16, 12.20, 12.24, 12.25

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The amendments implement the Human Resources Code, §§22.001-22.030 and 33.001-33.024 of the Human Resources Code.

§12.2. Definitions of Program Terms.

Terms used in the administration and operation of the Child and Adult Care Food Program (CACFP) in Texas are defined in 7 Code of Federal Regulations §226.2 and 7 Code of Federal Regulations Parts 3015 and 3016, and appropriate Office of Management and Budget Circulars, except as defined in paragraphs (1)-(5) [(1)-(4)] of this section:

(1) (No change.)

(2) **Contract period** - The beginning date through the ending date specified in the original contract, or earlier if the contract is terminated before the end of the contract period. The Texas Department of Human Services considers extensions as separate contract periods.

(3)[(2)] Expansion funds - Funds made available to a contractor that has sponsored the participation of day care homes for at least one year at the time of application for expansion funds to expand the participation of the CACFP in day care homes located in low-income and/or rural areas.

(4)[(3)] Low-income area - Local area where at least 50% of the area children are eligible for free or reduced-price school meals under the National School Lunch Program, as determined:

(A) by the number of free and reduced-price lunches or breakfasts served to children attending public and nonprofit private schools located in areas where there are CACFP sites,

(B) by information provided from departments or agencies that shows the family size and income of families in specific geographical boundaries, or

(C) from other appropriate sources.

(5)[(4)] Rural area -

(A) any area in a county which is not part of a Metropolitan Statistical Area, or

(B) any "pocket" within a Metropolitan Statistical Area which, at the option of the Texas Department of Human Services and with concurrence of the Food and Nutrition Service Regional Office, is determined to be geographically isolated from other urban areas.

§12.3. Eligibility of Contractors and Facilities.

(a) (No change.)

(b) To be eligible to participate in the CACFP, the board of directors of sponsoring organizations of day care homes must have recruitment procedures that encourage a diverse representation of members in terms of ethnicity, age, profession or background, and communities served. At least 50% of the board membership must be composed of representatives of the community to be served, rather than related to insiders. For the purpose of this section, insiders are defined as the founders, their families, and/or employees.

(c) To be eligible to participate in the CACFP, sponsoring organizations of day care homes must have written:

(1) bylaws that address:

(A) statement of agency purpose;

(B) board size, terms of office, term limits, rotation policy, and elections;

(C) regular and special meetings, meeting notices, attendance requirements, removal for cause, and filling interim vacancies;

(D) officers' terms of office, responsibilities, and election;

(E) committees, their charges, size, and composition (for standing committees only);

(F) quorums for board meetings;

(G) prohibitions against board members using their position on the board of directors to obtain or access confidential client information; and

(H) bylaws amendment process;

(2) personnel policies and procedures that standardize the everyday actions and conduct of all employees. The sponsoring organization's employee personnel policies and procedures handbook must address at a minimum the following:

(A) Fair Employment Law, including:

(i) the Civil Rights Act of 1964;

(ii) Age Discrimination in Employment Act;

(iii) Americans with Disabilities Act; and

(iv) Equal Pay Act;

(B) Fair Labor Standards Act of 1938;

(C) contract labor;

(D) affirmative action policy;

(E) disabilities in the workplace policy, including but not limited to:

(i) Drug Free Workplace; and

(ii) human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS);

(F) sexual harassment;

(G) conflict of interest;

(H) nepotism;

(I) recruitment, interview, and hiring procedures, including but not limited to:

(i) job posting;

(ii) job descriptions;

(iii) interviewing systems; and

(iv) reference checking and responding to reference checking;

(J) rules of conduct;

(K) work hours;

(L) breaks;

(M) leave requests;

(N) identification of holidays;

(O) staff entitlements and benefits;

(P) staff orientation, initial training, and staff development;

(Q) confidentiality requirements, including maintenance and disclosure of personnel information and personnel files, and response to requests of public open record information;

(R) employee evaluation (each employee must be evaluated not less frequently than annually);

(S) probationary period;

(T) termination procedures, including reductions in force and/or reorganizations; and

(U) grievance procedures;

(3) policies and procedures pertaining to rules of conduct for employees, including but not limited to:

(A) oral and written orientation and training programs for employees;

(B) staff conflict of interest;

(C) the prohibition against hiring of persons related within the second degree by consanguinity or third degree

by affinity to any member of the board of directors or employee of the sponsoring organization;

- (D) acquiring and responding to reference checks;
- (E) leave; and
- (F) staff benefits and entitlements.

(d) To be eligible to participate in the CACFP as a day care home sponsor, contractors must have written job-related hiring policies and procedures, including interview processes that are uniform for all candidates within a particular position.

(e) To be eligible to participate in the CACFP as a day care home sponsor, contractors under the jurisdiction of the Fair Employment Law must have written recruitment and hiring policies and procedures ensuring that the:

(1) system used to recruit and hire employees does not impact one protected class more than another; and

(2) recruitment of applicants does not exclude any potential applicants.

(f) To be eligible to participate in the CACFP as a day care home sponsor, contractors under the jurisdiction of the Fair Labor Standards Act of 1938 must identify in writing all positions as exempt or non-exempt, according to the requirements of the Act.

(g) To be eligible to participate in the CACFP as a day care home sponsor, contractors that hire contract labor employees must have written contract labor policies and procedures before such employees are hired.

(h) To be eligible to participate in the CACFP as a day care home sponsor, contractors subject to the Americans with Disabilities Act must have written:

(1) policies and procedures that ensure reasonable accommodations for disabled applicants and employees;

(2) policies and procedures ensuring that applicants and employees that have HIV/AIDS, or who are believed to be HIV positive, are not discriminated against; and

(3) job descriptions that list the essential job functions for every position.

(i) Sponsoring organizations must have a written drug and alcohol policy that states at least the following:

(1) illegal use or illegal possession of alcohol and drugs are prohibited while on duty;

(2) belief in a treatment and recovery approach;

(3) concern for employees;

(4) identify programs and systems for assistance; and

(5) guarantee confidentiality.

(j) To be eligible to participate in the CACFP as a day care home sponsor, contractors subject to Title VII of the Civil Rights Act of 1964 must have written policies and procedures regarding sexual harassment.

(k)[(b)] To be eligible to participate in the CACFP as a day care home sponsor, applicants must:

(1) provide documentation that verifies that a minimum of 50 registered or licensed day care homes have signed an application and agreement, as specified by the Texas Department of Human Services (DHS), to participate under the contractor's sponsorship. Each day care home must be providing child care to at least one nonresidential child. Day care homes must be eligible to execute a sponsorship agreement in accordance with §12.6(f) of this title (relating to Agreement). DHS may approve applications for fewer than 50 day care homes, if the sponsorship of day care homes is an integral but subordinate part of an existing nonprofit or governmental community service provided by the sponsor;

(2) demonstrate that the governing authority is aware of the responsibilities and liabilities it accepts by agreeing to participate in the program;

(3) submit a comprehensive financial statement showing all expenditures and sources of income to the organization for the three years preceding the year for which application is made. Non-governmental entities with fewer than three years of administrative and financial history that apply to participate in the CACFP as day care home contractors must submit a performance bond in an amount equal to the value of the contractor's projected annual level of reimbursement as determined by DHS. The performance bond must be obtained from a company designated in United States Treasury Circular 570 as certified to issue bonds for federally funded programs. Contractors required to submit a performance bond as a condition of eligibility for their initial application must submit a performance bond as a condition of eligibility for each contract renewal until relief from the bonding requirement has been granted, and must adjust the amount of the performance bond based on fluctuations in the value of the contract as determined by DHS. Contractors subject to the bonding requirement who have, at the time of application, less than three but more than two years of administrative and financial history, may request relief from the bonding requirement after 12 months of successful program participation. Contractors who have less than two, but more than one year of administrative and financial history, may request relief from the bonding requirement after 24 months of successful program participation. Contractors who have less than one year of administrative and financial history may request relief from the bonding requirement after 36 months of successful program participation. DHS grants relief from the bonding requirement based on the above schedule and the contractor's successful program operation;

(4) designate the primary physical location at which they can be contacted, and where all program records will be maintained and essential program management functions will be conducted. Program records must be available to Texas Department of Human Services (DHS) staff during normal business hours. Normal business hours are 8:00 a.m. through 5:00 p.m., Monday through Friday. An appropriate representative of the contractor must be available to DHS staff and providers during normal business hours. Contractors are considered to be available to DHS staff and providers if a representative of the contractor can be contacted by telephone at the primary business location during normal business hours, or if the contractor has established a procedure which allows DHS staff and providers to leave a voice message at the primary business location, and the contractor returns the call not later than 24 hours from the time the voice message is left. Contractors must notify DHS in advance of their intent to change their physical location;

(5) maintain a secondary business office physically located in each DHS region in which they sponsor a day care home to conduct program management functions, except that a secondary business location is not required in the DHS region in which a sponsor's primary business office is located. An appropriate representative of the contractor must be available to DHS staff and providers during normal business hours. Normal business hours are 8:00 a.m. through 5:00 p.m., Monday through Friday. Contractors are considered to be available to DHS staff and providers if a representative of the contractor can be contacted by telephone at the secondary business location during normal business hours, or if the contractor has established a procedure which allows DHS staff and providers to leave a voice message at the secondary business location, and the contractor returns the call not later than 24 hours from the time the voice message is left. Contractors must notify DHS in advance of their intent to change a secondary business location; [and]

(6) participate in program and program related training deemed reasonable and necessary by DHS; **and** [.]

(7) submit a uniform set of management information each month, as described in §12.9 of this title (relating to Reporting and Record Retention), in a standard delimited file format.

(l)[(c)] Facilities must be licensed or otherwise approved by federal, state, or local authorities. Adult day care centers must be licensed by the Texas Department of Health (TDH), except that receipt of Title XIX funds (Medicaid) constitutes approval for program participation. Child care centers must be licensed or registered by DHS. General Exception: Facilities operated by federal and Indian tribal governments are not required to be licensed or otherwise approved by DHS or TDH.

(m)[(d)] DHS requires contractors to submit as proof of eligibility one or more of the following forms of documentation of tax-exempt status:

(1) letter from the IRS notifying the contractor that he has been granted tax-exempt status under the Internal Revenue Code of 1954;

(2) proof of participation in another federal program that requires non-profit status; and/or

(3) letter from the IRS acknowledging acceptance of the contractor's application for tax-exempt status under the Internal Revenue Code of 1954. [; and/or]

[(4) letter certifying that at least 25% of the children enrolled in the institution making application received Title XX benefits in the month before the month in which the application is submitted.]

(n) To be eligible to participate in the CACFP as a day care home sponsor, contractors must, in addition to the documentation described in subsection (m) of this section, provide as proof of their current tax-exempt status not less frequently than annually, a copy of their most recent IRS Form 990 (Return of Organization Exempt From Income Tax) submitted to the Internal Revenue Service.

(o) DHS requires applicants/contractors that are proprietary, for-profit entities to submit as proof of eligibility, a letter certifying that at least 25% of the enrollment or licensed capacity of the facility or facilities for which the contractor is making application received benefits under Title XX of the Social Security

Act in the month before the month in which the application is submitted.

(p)[(e)] DHS requires contractors to submit copies of a current licensure or registration to operate a day care facility when they:

(1) apply to participate in the CACFP, or

(2) receive a renewed or amended license or registration.

(q)[(f)] Contractors are ineligible for the CACFP if they have permitted a member of the governing body, an agent, a consultant, or an employee of the contractor to enter the facility when children are present and any of these persons have been convicted of:

(1) a felony or misdemeanor classified as an offense against the person or the family, or as public indecency; or

(2) a felony violation of any statute intended to control the possession or distribution of a substance included in the Texas Controlled Substances Act.

(r)[(g)] Contractors are ineligible for the CACFP if they have permitted a member of the governing body, an agent, a consultant, or an employee of the contractor to engage in any activity related to the administration of the CACFP and any of these persons have been convicted of a fraudulent activity, including cases in which adjudication is deferred.

(s)[(h)] Contractors are ineligible for the CACFP if they sponsor the participation of a day care home which, after being afforded due process by the contractor, has been terminated for cause, including but not limited to program abuse, deficient program operation, and fraudulent activities, unless DHS has granted prior approval.

(t)[(i)] DHS requires contractors to submit documentation of compliance with the requirements of the Single Audit Act. Contractors must submit as proof of eligibility one or more of the forms of documentation of compliance specified in paragraphs (1)-(3) of this subsection:

(1) a copy of an audit for a specific contractor fiscal year which has been determined to meet the requirements of the Single Audit Act;

(2) a completed DHS Single Audit Identification Data form containing assurance that the contractor will obtain an acceptable audit which will meet the requirements of the Single Audit Act; or

(3) documentation that the contractor is not subject to the Single Audit Act.

§12.5. Application for Program Benefits - Contractors.

(a) (No change.)

(b) A sponsoring organization of day care homes must include in its applications for participation in the CACFP, sufficient detail to demonstrate how the board of directors of the organization will:

(1) assure that the sponsoring organization is operating in an efficient and economic manner, without becoming involved in day-to-day operations;

(2) employ and, at minimum, annually review the performance of the executive director;

(3) review and approve programs and budgets as specified in §12.7 of this title (relating to Budget);

(4) set, or review and approve, board policies for the organization's operation; and

(5) assure that the sponsoring organization maintains the following documents according to the record keeping requirements described in §12.9 of this title (relating to Reporting and Record Retention):

(A) articles of incorporation and letter granting income tax exempt status;

(B) mission statement;

(C) brief agency history;

(D) insurance policies;

(E) current list of board members with mailing addresses and telephone numbers;

(F) current organizational chart;

(G) program list and a brief description of each program;

(H) agency policies that include, but are not limited to, confidentiality, personnel, financial, and travel;

(I) current operating budget and amendments and copies of budget summaries and audits for all past years;

(J) list of donors;

(K) minutes of board meetings; and

(L) any other documents required by DHS as described in this section.

(c)[(b)] Each contractor must submit to DHS as part of its program application the names of all officers, agents, consultants, and other employees of the sponsoring organization involved in any aspect of the Child Care Food Program.

(d)[(c)] If a contractor's application for participation is incomplete, DHS will deny the application if the requested additional information is not submitted to DHS within 30 days of the date of the written request. The contractor may reapply when all required information and documentation is available.

(e)[(d)] To be eligible for start-up funds or expansion funds, contractors that sponsor day care homes must submit an application. DHS approves or denies applications for start-up and expansion funds according to 7 Code of Federal Regulations §§226.6, 226.12, 226.15, 226.16, and 226.23.

(1) Start-up funds are available only to sponsors of day care homes or contractors that are attempting to add day care homes to their operation.

(2) Expansion funds are available only to contractors that have sponsored day care homes for at least one year at the time of application and may be used only to expand program operations in low-income and/or rural areas. DHS considers the anticipated amount of expansion funds and alternate sources of funds when evaluating an applicant sponsor's plan for expansion. Contractors that are eligible to receive expansion funds may receive expansion funds only once. Applications for expansion funds must include:

(A) an acceptable and realistic plan for recruiting day care homes to participate in the program, including activities which the sponsoring organization will undertake;

(B) the amount of expansion funds needed and a budget detailing the costs the organization will incur, document, and claim;

(C) the time necessary for the expansion of program operations; and

(D) documentation that the expansion area meets the definition of a rural or low-income area.

§12.8. *Financial Management [System].*

(a) **The stewardship function of the board of directors of sponsoring organizations is to ensure fiscal accountability of all funds received and spent by the sponsoring organizations.** Contractors must implement and maintain records supporting the financial management system established by the Texas Department of Human Services (DHS) [DHS] according to 7 Code of Federal Regulations §§226.6, 226.7, and 226.11.

(b)-(c) (No change.)

§12.9. *Reporting and Record Retention.*

(a) The contractor must **submit reports and** keep financial and supporting documents, statistical records, and any other records of services for which the contractor submits a claim in the manner and detail prescribed by the Texas Department of Human Services (DHS) **,including but not limited to, records of their eligibility and application for program participation, and compliance with all requirements relating to:**

(1) financial management of the program;

(2) determination of program participant eligibility;

(3) eligibility of meals;

(4) licensing or registration of each of their facilities;

(5) composition and activities of the governing body;

(6) the actions and conduct of employees;

(7) personnel documents;

(8) procurement;

(9) **United States Department of Agriculture (USDA) donated commodities;**

(10) **monitoring and reviews, including preapproval visits;**

(11) training and technical assistance;

(12) denials and terminations of facilities;

(13) appeals;

(14) civil rights; and

(15) health, safety, and sanitation standards.

(b) **Contractors** [The contractor's staff] must keep records and documents **pertaining to the CACFP** for at least three years and 90 days after the termination of the contract period. If any litigation, claim, audit, or investigation involving these records begins before the stipulated time period expires, the contractor must keep the records and documents for not less than three years and 90 days after

the termination of the contract period and until all litigation, claims, audits, or investigation findings are resolved. DHS considers the case resolved when a final order is issued in litigation or a written agreement is signed between DHS and the sponsoring organization. [Contract period means the beginning date through the ending date specified in the original contract, or earlier if the contract is terminated before the end of the contract period. DHS considers extensions as separate contract periods.]

(c)[(b)] The contractor and his facilities must allow DHS, USDA, and Government Accounting Office officials and other officials, determined appropriate by DHS, to inspect facilities and records and to audit, examine, and copy records at a reasonable time.

(d)[(c)] A sponsoring organization with more than one approved facility participating in the program must maintain separate records for each facility or maintain the records in a way that makes the information for each facility easy to identify and retrieve. Organizations must maintain Child and Adult Care Food Program records separately from other program records.

(e)[(d)] Each sponsoring organization must ensure that a daily count of all children in attendance is taken and recorded daily. The organization must ensure that the record includes, at a minimum, the full, proper name of each child in attendance and the total number of children in attendance.

(f)[(e)] Sponsoring organizations must use DHS forms in the administration and operation of the program, unless DHS clearly indicates otherwise.

(g)[(f)] Unless indicated otherwise in §12.10(a)-(b) of this title (relating to Procurement Standards), contractors must maintain records according to 7 Code of Federal Regulations §§226.6, 226.7, 226.10, 226.11, 226.15, 226.16, 226.17, 226.18, 226.19, 226.19a, 226.20, 226.22, and 226.23.

(h) **Contractors that sponsor day care homes must provide written rules of conduct to employees upon employment and maintain records of written policies and procedures described in §12.3(c) of this title (relating to Eligibility of Contractors and Facilities).**

(i) **Sponsoring organizations must maintain documentation of all training in the employee's personnel file.**

(j) **Sponsoring organizations of day care homes subject to the Fair Labor Standards Act of 1938 must identify in writing all positions as exempt or non-exempt according to the requirements of the Act.**

(k) **Sponsoring organizations of day care homes that hire contract labor employees must have written contract labor policies and procedures before such employees are hired.**

(l) **Sponsoring organizations subject to the Americans with Disabilities Act must have written policies and procedures that ensure reasonable accommodations for disabled applicants and employees.**

(m) **Sponsoring organizations must have a written drug and alcohol policy that states at least the following:**

- (1) **illegal use or illegal possession of alcohol and drugs are prohibited while on duty;**
- (2) **belief in a treatment and recovery approach;**

- (3) **concern for employees;**
- (4) **identify programs and systems for assistance; and**
- (5) **guarantee confidentiality.**

(n) **Contractors subject to the Americans with Disabilities Act must have written policies and procedures ensuring that applicants and employees with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) or who are believed to be HIV positive are not discriminated against.**

(o) **Contractors subject to Title VII of the Civil Rights Act of 1964 must have written policies and procedures regarding sexual harassment.**

(p) **Contractors that sponsor day care homes and are subject to the Fair Employment Law must have written recruitment policies and procedures ensuring that the:**

- (1) **system used does not impact one protected class more than another; and**
- (2) **recruitment of applicants does not exclude any potential applicants.**

(q) **Contractors that sponsor day care homes must have written job-related hiring policies and procedures, including interview processes that are uniform for all candidates within a particular position.**

(r) **Contractors subject to the Americans With Disabilities Act must have written job descriptions for every position and list the essential job functions for every position.**

(s) **Contractors subject to the Fair Employment Law must, when hiring employees, utilize a system that does not impact one protected class more than another and must treat all candidates equally.**

(t) **Contractors that sponsor day care homes must retain all personnel documents; hiring information, including applications, and screening and interviewing materials; and all supervisory notes involving personnel decisions.**

(u) **Contractors that sponsor day care homes must maintain a personnel file for each employee. Each file must include at least the following information:**

- (1) **employment application and/or resume;**
- (2) **job description with essential job functions indicated;**
- (3) **all performance evaluations;**
- (4) **any status or classification change;**
- (5) **letters of praise or criticism;**
- (6) **all disciplinary actions;**
- (7) **documentation of orientation, training, and staff development;**
- (8) **signed acknowledgment of receipt of personnel policies and procedures handbook; and**
- (9) **signed acknowledgment of confidentiality agreement.**

(v) Contractors must maintain all payroll information, including time sheet, tax form, and voluntary/involuntary deductions in the payroll information file, the personnel files, or in accordance with the sponsoring organization's financial policy and procedures.

(w) Contractors must have written policies regarding an employee's right to access his personnel file.

(x) Contractors must have written policies to ensure the confidentiality of:

(1) Form I-9 (U.S. Department Of Justice Employment Eligibility Verification);

(2) all health and medical information; and

(3) complaints and investigation documents of fair employment laws.

(y) Contractors that sponsor day care homes and are subject to the Americans with Disabilities Act must have written policies to ensure the separate maintenance of all health and medical information.

(z) Contractors that sponsor day care homes must ensure that all employees receive and sign for a personal copy of the employee personnel policies and procedures handbook, and each update or revision, as described in §12.3 of this title (relating to Eligibility of Contractors and Facilities). Sponsoring organizations must maintain a copy of the signed acknowledgment(s) of receipt in the employee's personnel file.

(aa) Contractors that sponsor day care homes and are subject to the Fair Employment Law must have written policies demonstrating how they comply with each component of this law.

(bb) Contractors that sponsor day care home providers must submit a uniform set of management information each month. The information must be submitted in a standard delimited file format. DHS may require all or selected items of the information listed in paragraphs (1)-(4) of this subsection:

(1) individual provider information, including:

(A) name, address and telephone number;

(B) name, address and telephone number of caregivers that assist the provider in providing child care;

(C) license/registration information;

(D) status of participation (active/inactive);

(E) social security number;

(F) language spoken;

(G) approved meal service;

(H) approved days of operation;

(I) operation of shifts; and

(J) contract effective date;

(2) provider payment information, including:

(A) month and year claimed for payment;

(B) payment type - regular or adjusted;

(C) amount of claim;

(D) date claim was paid;

(E) check number of claim payment;

(F) total attendance for claim month;

(G) names of children in attendance for whom meals were claimed;

(H) number of meals, by type of meal, claimed for each child for the claim month;

(I) number of meals, by type of meal, disallowed for each child for the claim month;

(J) reason for disallowed meals, by type of meal, for each child for the claim month;

(K) dollar amount for disallowed meals, by type of meal, for the claim month; and

(L) total meals, by type of meal, for which payment was made for the claim month;

(3) participant (child) information, including:

(A) name, address and telephone number;

(B) work telephone number(s) for parents/guardians;

(C) status of participation (active/inactive);

(D) sex;

(E) date of birth;

(F) social security number;

(G) foster child status;

(H) resident child status;

(I) eligibility of resident child;

(J) disability status;

(K) date enrolled/removed from care;

(L) days and hours in care; and

(M) name of parent/guardian; and

(4) provider monitoring visit information, including:

(A) number of monitoring visits;

(B) anticipated date of monitoring visits;

(C) actual dates of monitoring visits;

(D) type of meal observed;

(E) number of children observed eating meal; and

(F) type of visit (regular or follow-up).

§12.15. *Reimbursement Methodology.*

(a)-(b) (No change.)

(c) To be eligible for reimbursement, contractors must ensure that claims for reimbursement are postmarked or received by DHS no later than 30 days after the end of the claim month. Persons who sign the DHS certificate of authority form as the authorized representative of the contractor must sign claims. [DHS may approve payment of

a claim postmarked or received by DHS later than 30 days after the end of the claim month provided that:

[(1) a contractor submits a written request for payment of a claim submitted late for good cause beyond the control of the contractor, and

[(2) the late claim and written request for payment are postmarked or received by DHS no later than 60 days after the end of the claim month.]

(d) DHS **may** [does] not pay claims postmarked or received by DHS later than 60 days after the end of the claim month, unless the United States Department of Agriculture (USDA) determines that the submission of the late claim is the result of good cause beyond the contractor's control. **For claims postmarked or received by DHS later than 60 days after the end of the claim month, DHS will notify the contractor that they may submit a written request for payment which demonstrates that the claim was submitted late for good cause beyond the control of the contractor. If DHS does not agree that good cause beyond the control of the contractor exists for the submission of a claim later than 60 days after the end of the claim month, DHS will notify the contractor that the request for payment will not be forwarded to USDA for consideration. If DHS agrees that the claim was submitted late for good cause beyond the control of the contractor, DHS will forward the request for payment to USDA with a recommendation that the claim be paid. If USDA determines that good cause exists, DHS may pay the claim. If USDA determines that good cause beyond the control of the contractor does not exist or if the contractor chooses not to submit a request for payment of a late claim demonstrating that good cause beyond his control exists, DHS may grant an exception and pay a claim postmarked or received by DHS later than 60 days after the end of the claim period provided that the contractor:**

(1)-(2) (No change.)

(e)-(f) (No change.)

§12.16. Advance Payments.

(a) **The Texas Department of Human Services (DHS)** [DHS] issues and monitors advance payments to eligible contractors, and contractors account for these funds according to 7 Code of Federal Regulations §§226.2, 226.6, 226.7, 226.10, and 226.16.

(b) (No change.)

(c) **DHS denies and/or suspends advance payments to contractors that sponsor day care homes for failure to comply with program requirements.**

§12.20. Training/Technical Assistance.

(a) Contractors must provide training and technical assistance deemed reasonable and necessary by the Texas Department of Human Services to their facilities according to 7 Code of Federal Regulations §§226.6, 226.16, and 226.18.

(b) **Contractors that sponsor day care homes must provide all employees with initial training, including supervised instruction about specific job functions covered in their job description. Sponsoring organizations must maintain documentation of all initial training in the employee's personnel file.**

(c) **Contractors that sponsor day care homes must provide an orientation to new board members at which each new**

board member will receive a board handbook. Each board member must sign an acknowledgment of receipt of the board handbook which specifies the content of the handbook. The handbook will include at a minimum:

(1) **board member job description;**

(2) **current list of board members with mailing addresses and telephone numbers;**

(3) **agency mission statement;**

(4) **agency bylaws and a copy of the letter granting tax-exempt status under §501(c)(3) of the Internal Revenue Code;**

(5) **committee list with assignments of all board members and staff;**

(6) **committee descriptions;**

(7) **operating policies of the agency, including any policies affecting the board, such as board attendance policy and agency confidentiality policy;**

(8) **organizational chart;**

(9) **agency history;**

(10) **program services list with descriptive information and data;**

(11) **current budget, including funding sources;**

(12) **list of contract or restricted grants from any public or private entity;**

(13) **list of agencies, organizations, and governmental entities with which the agency works or interacts with regularly, including a brief description of the relationship;**

(14) **description of contract provisions with attorneys, auditors, or other professionals; and**

(15) **basic information about food services.**

(d) **Sponsoring organizations of day care homes must provide each new staff member a written or oral orientation within the first two days of employment.**

(e) **Along with the executive director, the boards of sponsoring organizations must plan and conduct an annual training for all staff that includes at a minimum the following:**

(1) **an explanation of the sponsoring organization's mission, philosophy, and a brief history;**

(2) **a description of the agency's current programs, provided by program staff;**

(3) **a review of the agency's policies and clarification of any changes made during the year;**

(4) **an explanation of how the sponsoring organization is funded and future funding projections;**

(5) **a discussion of the roles and responsibilities of the board, including legal and fiscal responsibilities, meetings, attendance requirements, committee duties, structure, and assignments, and fund raising and public relations responsibilities presented by the board chair or a member of the executive committee;**

(6) an explanation of the agency's insurance coverage, including director's and officer's liability insurance or a notification of inability to obtain insurance;

(7) an explanation of the working relationship between the board and staff, including but not limited to, which staff member is contacted regarding questions or requests and which staff members will contact board members routinely; and

(8) updates on any changes made in the Texas Non-Profit Corporation Act.

§12.24. Sanctions and Penalties.

(a) (No change.)

(b) DHS imposes sanctions, including determination of serious deficiency in the administration of the Child and Adult Care Food Program (CACFP), termination, and debarment against contractors that sponsor day care homes for failure to comply with program requirements according to §12.25 of this title (relating to Denials and Terminations).

(c) If DHS has evidence that a contractor has knowingly submitted false information, DHS will immediately terminate the contractor's agreement and declare the contractor deficient. DHS will deny payment of any unpaid claim for reimbursement and notify the contractor's eligible providers that they may transfer to another approved sponsor.

(d) If a sponsor fails to attend training designated by DHS as mandatory, DHS will immediately terminate the contractor's agreement and declare the contractor seriously deficient. DHS will deny payment of any unpaid claim for reimbursement and notify the contractor's eligible providers that they may transfer to another approved sponsor.

(e) DHS imposes sanctions against contractors that sponsor day care homes who fail to comply with program requirements for monitoring, and who fail to train providers according to the following procedure:

(1) If DHS determines during an initial review of the sponsor for the contract year that the sponsor has not complied with the requirements in this subsection, DHS will impose sanctions for the test month of the review including denial of administrative reimbursements, establishing a cap on the number of day care home providers the contractor may sponsor, not to exceed the number of day care homes sponsored at the time of the review, rescinding and/or denying approval for advance payments. DHS will require the contractor to submit a plan describing how the program noncompliance will be corrected.

(2) DHS will conduct a follow-up review not later than 90 days after notifying the contractor of the review findings to determine if the sponsor is in compliance with the requirements in this subsection. If DHS determines during the follow-up review that the sponsor has not corrected all instances of program noncompliance identified in the initial review, DHS will extend the sanctions to include the months subsequent to the month of the initial review through the month of the follow-up review. In addition, DHS will suspend payment for all claims.

(3) DHS will conduct a second follow-up review not later than 45 days after notifying the contractor of the findings of the initial follow-up review to determine if the sponsor is in compliance with the requirements in this subsection. DHS

will notify the contractor that failure to correct all instances of noncompliance with the requirements in this subsection will result in contract termination, declaration that the organization is seriously deficient in its administration of the program, forfeiture of any outstanding claims for reimbursement, release of the contractor's eligible providers to transfer to another approved sponsor, and that individuals responsible for the deficiencies will be debarred.

(f) DHS imposes sanctions against contractors that sponsor day care homes who fail to ensure that claims are submitted only for eligible meals served to eligible children according to the following procedure:

(1) If DHS determines during an initial review of the sponsor for the contract year that the sponsor has failed to ensure that claims are submitted only for eligible meals served to eligible children, DHS will impose sanctions if 10% or more of the meals sampled and claimed for reimbursement for the test month of the review fail to meet program requirements, including establishing a cap on the number of day care home providers the contractor may sponsor, not to exceed the number of day care homes sponsored at the time of the review, rescinding and/or denying approval for advance payments. Regardless of the number of meals determined to be ineligible for reimbursement, DHS will deny administrative reimbursements for any day care home provider who does not have eligibility or enrollment forms containing required information, and will require the contractor to submit an amended reimbursement claim to remove all ineligible meals for the test month and a plan describing how the program noncompliance will be corrected.

(2) If 10% or more of the meals sampled and claimed for reimbursement for the test month of the review fail to meet program requirements, DHS will conduct a follow-up review not later than 90 days after notifying the contractor of the review findings to determine if the sponsor is in compliance with requirements for ensuring claims are submitted only for eligible meals served to eligible children. If DHS determines during the follow-up review that 10% or more of the meals sampled and claimed for reimbursement for the test month of the follow-up review fail to meet program requirements, DHS will extend the sanctions to include the months subsequent to the month of the initial review through the month of the follow-up review. In addition, DHS will suspend payment for all claims. If less than 10% of all meals claimed for the test month of the follow-up review are ineligible, the sponsor may not claim reimbursement for any ineligible meals for the test month, may not receive administrative reimbursement for any day care home provider who does not have eligibility or enrollment forms containing the required information, and must submit a plan describing how the program noncompliance will be corrected.

(3) If more than 10% of the meals sampled for the test month of the follow-up review fail to meet program requirements, DHS will conduct a second follow-up review not later than 45 days after notifying the contractor of the findings of the initial follow-up review to determine if the sponsor is in compliance with requirements for ensuring claims are submitted only for eligible meals served to eligible children. DHS will notify the contractor that failure to correct all instances of noncompliance with requirements for ensuring claims are submitted only for eligible meals served to eligible children will

result in contract termination, declaration that the organization is seriously deficient in its administration of the program, forfeiture of any outstanding claims for reimbursement, release of the contractor's eligible providers to transfer to another approved sponsor, and that individuals responsible for the deficiencies will be debarred.

(g) DHS imposes sanctions against contractors that sponsor day care homes whose financial management and record keeping systems do not ensure that administrative costs incurred and claimed for reimbursement are allowable and are included in its approved program budget according to the following procedure:

(1) If DHS determines during an initial review of the sponsor for the contract year that the sponsor has not complied with the requirements in this subsection, DHS will impose sanctions for the test month of the review including requiring the contractor to submit an amended claim to remove all unallowable costs from its reimbursement claim for the test month, establishing a cap on the number of day care home providers the contractor may sponsor, not to exceed the number of day care homes sponsored at the time of the review, rescinding and/or denying approval for advance payments. DHS will require the contractor to submit a plan describing how the program noncompliance will be corrected.

(2) DHS will conduct a follow-up review not later than 90 days after notifying the contractor of the review findings to determine if the sponsor is in compliance with the requirements in this subsection. If DHS determines during the follow-up review that the sponsor has not corrected all instances of program noncompliance identified in the initial review, DHS will extend the sanctions to include the months subsequent to the month of the initial review through the month of the follow-up review. In addition, DHS will suspend payment for all claims.

(3) DHS will conduct a second follow-up review not later than 45 days after notifying the contractor of the findings of the initial follow-up review to determine if the sponsor is in compliance with the requirements in this subsection. DHS will notify the contractor that failure to correct all instances of noncompliance with the requirements identified in this subsection will result in contract termination, declaration that the organization is seriously deficient in its administration of the program, forfeiture of any outstanding claims for reimbursement, release of the contractor's eligible providers to transfer to another approved sponsor, and that individuals responsible for the deficiencies will be debarred.

(h) DHS imposes sanctions against contractors that sponsor day care homes who fail to disburse program funds to providers in accordance with program requirements according to the following procedure:

(1) If DHS determines during an initial review of the sponsor for the contract year that the sponsor has not complied with the requirements identified in this subsection, DHS will impose sanctions for the test month of the review including requiring the contractor to submit an amended claim to remove, for the purpose of determining administrative reimbursement, all providers who have not been issued program funds according to program requirements (day care home provider's meal reimbursement will not be recouped) from its reimbursement claim for the test month, establishing a cap on the number of day care

home providers the contractor may sponsor, not to exceed the number of day care homes sponsored at the time of the review, rescinding and/or denying approval for advance payments. DHS will require the contractor to submit a plan describing how the program noncompliance will be corrected.

(2) DHS will conduct a follow-up review not later than 90 days after notifying the contractor of the review findings to determine if the sponsor is in compliance with the requirements identified in this subsection. If DHS determines during the follow-up review that the sponsor has not corrected all instances of program noncompliance identified in the initial review, DHS will extend the sanctions to include the months subsequent to the month of the initial review through the month of the follow-up review.

(3) DHS will conduct a second follow-up review not later than 45 days after notifying the contractor of the findings of the initial follow-up review to determine if the sponsor is in compliance with the requirements identified in subsection (h) of this section. DHS will notify the contractor that failure to correct all instances of noncompliance with monitoring requirements will result in contract termination, declaration that the organization is seriously deficient in its administration of the program, forfeiture of any outstanding claims for reimbursement, release of the contractor's eligible providers to transfer to another approved sponsor, and that individuals responsible for the deficiencies will be debarred.

(i)(b) If, during a review or an audit, DHS cites a day home sponsoring organization for deficiencies in administrative or financial capabilities because of an excessive number of day home providers, DHS places a cap on the number of day home providers the organization may sponsor. DHS identifies the number of day home providers the sponsoring organization can properly administer and immediately notifies the sponsor. The sponsor has 10 days to submit a plan to DHS to reduce the number of day home providers to the level of the approved cap.

(j)(c) DHS approves no additional day home providers for day home sponsoring organizations identified through audit or review as deficient in program operations until the sponsoring organization submits to DHS an acceptable plan to correct the deficiency.

(k)(d) DHS suspends payments to day home sponsoring organizations submitting repeated amended claims until the sponsoring organization demonstrates that it can produce a final claim on time each month unless the sponsoring organization can demonstrate good cause beyond its control for submitting the amended claims. DHS ensures that no future adjustments in claims are paid beyond the claiming time frames, except when justified by on-site DHS/USDA reviews or independent audits.

(l)(e) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due before June 1, 1996, for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(1) DHS takes fiscal sanctions against a contractor according to the procedures specified in subparagraphs (A)-(E) of this paragraph.

(A) DHS notifies each contractor upon approval of the application for program participation of the date by which an

acceptable audit must be received by DHS, and that failure to comply will result in sanctions up to and including contract termination and recovery of payments.

(B) DHS notifies contractors by certified mail within 15 days after a required audit is not received, or an audit is determined to be unacceptable, that failure to submit an acceptable audit within 30 days of receipt of the notification will result in suspension of payments.

(C) If an acceptable audit is not received within the 30 days specified in subparagraph (B) of this paragraph, DHS notifies the contractor by certified mail that payments will be withheld beginning the next claim month, and that failure to submit the required audit within 30 days of receipt of this notification will result in termination.

(D) If an acceptable audit is not received within the 30 days specified in subparagraph (C) of this paragraph, DHS notifies the contractor by certified mail that failure to submit the required audit within 30 days of receipt of this notification will result in termination in the next claim month.

(E) If an acceptable audit is not received within the 30 days specified in subparagraph (D) of this paragraph, DHS notifies the contractor that the contract is terminated effective upon receipt of this notification.

(2) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the contractor.

(3) If DHS imposes sanctions according to the procedures specified in paragraph (1) of this subsection for failure to submit an audit in compliance with the requirements of the Single Audit Act, and a contractor submits an audit which does not meet the requirements of the Single Audit Act, the sanction procedures will be re-initiated as specified in paragraph (1)(B) of this subsection. DHS may extend the time within which a contractor must submit an audit if DHS determines such an extension is justified.

(m)(f) If a sponsoring organization of day homes determines during a monitoring review, or by other means, that a provider has failed to comply with program requirements, the sponsor must execute a corrective action plan to achieve compliance. If a sponsoring organization conducts two or more unannounced monitoring reviews in any 12-month period during which the sponsor cannot confirm that children are enrolled for child care and participating in the program, the sponsor must execute a corrective action plan to ensure they are able to effectively monitor the provider's participation in the program. Exception: A sponsor may terminate the participation of a day care home provider without a corrective action plan if the safety of the children in care is at risk or if the sponsor determines that the program noncompliance is the result of intentional program abuse, deficient program operation, or fraudulent activities. The corrective action plan must:

(1) prescribe the actions to be taken by the sponsor and the provider to achieve compliance; and

(2) include the date by which corrective action must be completed.

(n)(g) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due on June 30, 1996, or later for failure to comply with the requirements of

the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(1) DHS takes fiscal sanctions against a contractor according to the procedures specified in paragraphs (1)-(4) of this subsection.

(A) DHS notifies each contractor upon approval of the application for program participation of the date by which an acceptable audit must be received by DHS, and that failure to comply will result in contract termination and recovery of overpayments as identified through audit findings.

(B) DHS provides the contractor three advance notices reminding the contractor of the specific date that the audit is due.

(i) DHS issues the first notice by regular mail six months after the end of the contractor's fiscal year for which the audit is due.

(ii) DHS issues the second notice by regular mail nine months after the end of the contractor's fiscal year for which the audit is due.

(iii) DHS issues the third notice by certified and regular mail 11 months after the end of the contractor's fiscal year for which the audit is due. DHS notifies the contractor that:

(I) DHS must receive the audit on or before the due date specified in the notice;

(II) if DHS does not receive the audit on or before the specified due date, DHS will terminate the contractor's contract effective the first day of the month following the month in which the audit was due; and

(III) the contractor has the right to appeal this decision.

(C) If DHS does not receive the audit on or before the specified due date, DHS notifies the contractor by certified and regular mail that their contract was terminated effective the first day of the month following the month in which the audit was due.

(2) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the contractor.

(3) If a contractor submits an audit which does not meet the requirements of the Single Audit Act, then DHS notifies the contractor in writing that the audit is unacceptable, how it is unacceptable, and that the contractor has 30 calendar days from the date on the notification to submit an acceptable audit to DHS. If DHS does not receive the required audit by the specified time frame and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit within the specified time frames;

(B) DHS must receive an acceptable audit by the due date specified in this notification;

(C) if DHS does not receive an acceptable audit by the specified due date, DHS will terminate their contract effective

the first day of the month following the due date specified in this notification; and

(D) the contractor has the right to appeal this decision. DHS may extend the time within which a contractor must submit an audit if DHS determines such an extension is justified.

(4) If DHS does not receive the required audit by the specified due date and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit by the specified due date; and

(B) DHS terminated their contract effective the first day of the month following the specified due date.

(5) Once a contractor has been terminated for failure to submit an acceptable audit, the contractor must provide an acceptable audit for any outstanding audit year(s) and comply with the requirements of the Single Audit Act in order to be eligible to participate in the Special Nutrition Programs.

§12.25. Denials and Terminations.

(a) (No change.)

(b) DHS terminates contracts and denies subsequent applications of sponsoring organization of day care homes who fail to submit reports in accordance with §12.9 of this title (relating to Reporting and Record Retention).

(c) DHS terminates contracts and denies applications of day care home sponsoring organizations who have been determined to be out of compliance with program requirements as described in §§12.3, 12.5, 12.6, and 12.24 of this title (relating to Eligibility of Contractors and Facilities, Application for Program Benefits-Contractors, Agreement, and Sanctions and Penalties). DHS may approve an application and execute a contract with a sponsoring organization of day care homes found to be out of compliance with program requirements if such sponsor demonstrates to the satisfaction of DHS that all instances of noncompliance have been corrected.

(d)(b)] DHS denies applications for participation and terminates agreements with contractors sponsoring day homes for failure to submit a balanced and reasonable budget.

(e)(c)] Sponsoring organizations of day homes must terminate the participation of day home providers who have been found guilty of committing fraud in the Child and Adult Care Food Program (CACFP), including cases in which adjudication is deferred. Denial of participation in the CACFP is effective for the duration of the sentence of the court, and termination is effective when the sentence is pronounced.

(f)(d)] DHS denies applications and terminates agreements with contractors if they have permitted any individual identified in **§12.3(p)** [§12.3(e)] of this title (relating to Eligibility of Contractors and Facilities) to enter the facility when children are present.

(g)(e)] DHS denies applications and terminates agreements with contractors if they have permitted any individual identified in **§12.3(q)** [§12.3(f)] of this title (relating to Eligibility of Contractors and Facilities) to engage in any activity related to the administration of the CACFP.

(h)(f)] DHS terminates agreements with contractors that sponsor day care homes if they receive reimbursement for fewer than 50 day care homes for three consecutive months.

(i)(g)] DHS denies applications for participation and terminates agreements with contractors subject to the bonding requirement identified in **§12.3(k)** [§12.3(b)] of this title (relating to Eligibility of Contractors and Facilities) if they fail to submit and maintain in good standing a performance bond in the amount established by DHS. DHS denies requests for relief from the bonding requirement if the contractor has an outstanding financial obligation to DHS.

(j)(h)] Sponsoring organizations of day homes must:

(1) terminate the participation of any day care home provider that they have determined has knowingly claimed meals for a child not enrolled for child care or not in attendance on a day that meals were claimed for the child; and

(2) submit the provider for inclusion on a list of seriously deficient providers.

(k)(i)] Sponsoring organizations of day homes must:

(1) terminate the participation of any day care home provider that refuses to enter into or comply with a corrective action plan designed to achieve compliance with program requirements: and

(2) submit the provider for inclusion on a list of seriously deficient providers.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610076

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Earliest possible date of adoption: August 23, 1996

For further information, please call: (512) 438-3765

◆ ◆ ◆ Summer Food Service Program

40 TAC §12.115

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The amendment implements the Human Resources Code, §§22.001-22.030 and 33.001-33.024 of the Human Resources Code.

§12.115. Reimbursement Methodology.

(a)-(b) (No change.)

(c) To be eligible for reimbursement, sponsors must ensure that claims for reimbursement are postmarked or received by DHS, no later than **60** [30] days after the end of the claim month. Persons who sign the DHS certificate of authority form as the authorized representative of the sponsor must sign claims. [The DHS may approve payment of a claim postmarked or received by DHS later than 30 days after the end of the claim month provided that:

[(1) a sponsor submits a written request for payment of a claim submitted late for good cause beyond the control of the sponsor; and

[(2) the late claim and written request for payment are postmarked or received by DHS no later than 60 days after the end of the claim month.]

(d) DHS does not pay claims postmarked or received by DHS later than 60 days after the **last day of the month covered by the claim** [end of the claim month], unless the United States Department of Agriculture (USDA) determines that the submission of the late claim is the result of good cause beyond the contractor's control. **If the final month of service is combined with the immediate preceding month to make a single claim, sponsors must ensure that the claim for reimbursement is postmarked, or received by DHS, no later than 60 days after the last day of meal service in the final month covered by the claim. For claims postmarked or received by DHS later than 60 days after the end of the month(s) covered by the claim, DHS will notify the contractor that they may submit a written request for payment which demonstrates that the claim was submitted late for good cause beyond the control of the contractor. If DHS does not agree that good cause beyond the control of the contractor exists for the submission of a claim later than 60 days after the end of the month(s) covered by the claim, DHS will notify the contractor that the request for payment will not be forwarded to USDA for consideration. If DHS agrees that the claim was submitted late for good cause beyond the control of the contractor, DHS will forward the request for payment to USDA with a recommendation that the claim be paid. If USDA determines that good cause exists, DHS**

may pay the claim. If USDA determines that good cause **beyond the control of the contractor** does not exist **or if the contractor chooses not to submit a request for payment of a late claim demonstrating that good cause beyond his control exists**, DHS may grant an exception and pay a claim postmarked or received by DHS later than 60 days after the end of the claim period provided that the contractor:

(1)-(2) (No change.)

(e) [DHS combines the claims for the first and next subsequent month of operation when sponsors operate fewer than 10 days in the first month of operation.] Sponsors that operate fewer than 10 days in the last month of operation must submit a final combined claim which includes the last and **immediate** [next] preceding month of operation.

(f) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610077

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Earliest possible date of adoption: August 23, 1996

For further information, please call: (512) 438-3765

◆ ◆ ◆

ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the ***Texas Register***. The section becomes effective 20 days after the agency files the correct document with the ***Texas Register***, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 3. Boll Weevil Eradication Program

Subchapter A. Election Procedures

4 TAC §§3.1-3.6

The Texas Department of Agriculture (the department) adopts amendments to §§3.1-3.6, concerning election procedures for the conducting of elections and referenda held by the Texas Boll Weevil Eradication Foundation (the foundation), without changes to the proposed text as published in the May 17, 1996, issue of the *Texas Register* (21 TexReg 4289).

The foundation was established in accordance with the Texas Agriculture Code (the Code), Chapter 74, Subchapter D, which provides for the establishment of a boll weevil or pink bollworm eradication program for the state of Texas to be implemented by the foundation.

The amendments are adopted in order to make the sections consistent with statutory changes made to the Code, Chapter 74, Subchapter D during the 74th Legislative Session (1995), to delete unnecessary language, including language already stated in the statute, and to clarify the sections.

One comment was received regarding §3.1 and the definition of cotton producer. The commenter requested that the definition be changed to clarify that cotton growers and cost-share entities as defined by the Farm Service Agency of the USDA are eligible to vote. The department believes that this clarification is not necessary as the definition of cotton grower already provides that persons who share in the proceeds from cotton are eligible and encompasses the federal definition. Accordingly, no changes have been made to proposed §3.1.

The amendments are adopted under the Texas Agriculture Code, §74.114, which requires the Texas Department of Agriculture to adopt procedures for the conducting of elections and referenda by the Texas Boll Weevil Eradication Foundation.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1996.

TRD-9609997

Dolores Alvarado Hibbs
Deputy General Counsel
Texas Department of Agriculture
Effective date: August 1, 1996
Proposal publication date: May 17, 1996
For further information, please call: (512) 463-7583



Subchapter C. Prohibition of Planting of Cotton and Requirements for Participation in the Eradication Program

4 TAC §§3.50, 3.51, 3.54, 3.55, 3.57

The Texas Department of Agriculture (the department) adopts amendments to §§3.50, 3.51, 3.54, 3.55 and 3.57, concerning the prohibition of planting of cotton in eradication zones established by the Texas Boll Weevil Eradication Foundation (the foundation) and the requirements for participating in the eradication program established by the foundation, without changes to the proposed text as published in the May 17, 1996, issue of the *Texas Register* (21 TexReg 4192).

The amendments are adopted in order to make the sections consistent with statutory changes made to the Code, Chapter 74, Subchapter D, during the 74th Legislative Session (1995).

The amendments will clarify the sections and make enforcement of the sections more efficient.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Agriculture Code, §74.118, which provides the Texas Department of Agriculture with the authority to adopt rules prohibiting the growing of cotton in eradication zones, requiring participation in the eradication program established by the foundation, and establishing penalties for failure to comply with such rules.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1996.

TRD-9609998

Dolores Alvarado Hibbs
Deputy General Counsel

Texas Department of Agriculture
Effective date: August 1, 1996
Proposal publication date: May 17, 1996
For further information, please call: (512) 463-7583

◆ ◆ ◆
**Subchapter D. Collection of Assessments and
Assessment Penalties**

4 TAC §§3.70, 3.71, 3.80, 3.81

The Texas Department of Agriculture (the department) adopts amendments to §§3.70, 3.71, 3.80 and 3.81, concerning the collection of assessments and penalties by the Texas Boll Weevil Eradication Foundation (the foundation), without changes to the proposed text as published in the May 17, 1996, issue of the *Texas Register* (21 TexReg 4291).

The amendments are adopted in order to make the sections consistent with statutory changes made to the Code, Chapter 74, Subchapter D, during the 74th Legislative Session (1995), and to clarify the sections.

The amendment to §3.80 updates legal citations and the name of the federal agricultural agency that deals with certification of cotton production, and makes changes due to changes in statutory language. Section 3.81 is amended to provide a new timeline for initiating judicial action and foreclosure of a lien by the department.

No comments were received on the proposal.

The amendments are adopted under the Texas Agriculture Code, §74.116, which provides the Texas Department of Agriculture with the authority to adopt rules setting criteria for exemption from payment of assessment penalties.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-9609999
Dolores Alvarado Hibbs
Deputy General Counsel
Texas Department of Agriculture
Effective date: August 1, 1996
Proposal publication date: May 17, 1996
For further information, please call: (512) 463-7583

◆ ◆ ◆
Subchapter E. Boll Weevil Quarantine

4 TAC §§3.100-3.107

The Texas Department of Agriculture (the department) adopted the repeal of §§3.100-3.107, concerning boll weevil quarantine, without changes to the proposed text as published in the May 17, 1996, issue of the *Texas Register* (21 TexReg 4293).

The department's boll weevil quarantine regulations found in Chapter 6 are established under the authority House Bill 3003, enacted by the 74th Legislature, amending the Texas Agriculture Code (the Code), Chapter 74, Subchapter D, (Vernon Sup-

plement 1995), which establishes the authority for eradication efforts including boll weevil and pink bollworm.

The repeals are adopted in order to allow the department to include all of its boll weevil quarantine regulations in one chapter, Chapter 6 of Title 4. Upon the repeal of §§3.100-3.107, Chapter 6 will apply to all boll weevil quarantines, including those in a boll weevil eradication zone established by the Texas Boll Weevil Eradication Foundation.

No comments were received regarding adoption of the repeal.

The repeals are adopted under the Texas Agriculture Code, §74.122, which provides the Texas Department of Agriculture with the authority to adopt rules relating to quarantining areas of the state that are infested with the boll weevil or the pink bollworm.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1996.

TRD-9610000
Dolores Alvarado Hibbs
Deputy General Counsel
Texas Department of Agriculture
Effective date: August 1, 1996
Proposal publication date: May 17, 1996
For further information, please call: (512) 463-7583

◆ ◆ ◆
Subchapter F. Miscellaneous Provisions

4 TAC §3.200

The Texas Department of Agriculture (the department) adopts an amendment to §3.200, concerning expiration provision, without changes to the proposed text as published in the May 17, 1996, issue of the *Texas Register* (21 TexReg 4293).

The amendment is adopted to require the department to review all sections in Chapter 3 and determine what, if any, sections need to be repealed, replaced or amended.

The amendment provides an expiration date of August 31, 2000, for all sections that are not repealed, amended, or reaffirmed by the department by that date.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for administration of the code.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1996.

TRD-9610001
Dolores Alvarado Hibbs
Deputy General Counsel

Texas Department of Agriculture
Effective date: August 1, 1996
Proposal publication date: May 17, 1996
For further information, please call: (512) 463-7583



TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Housing and Community Affairs

Chapter 9. Texas Community Development Program

Subchapter A. Allocation of Program Funds

10 TAC §9.10

The Texas Department of Housing and Community Affairs (TDHCA) adopts the repeal of §9.10 concerning the Interim Financing Fund and the allocation of Community Development Block Grant (CDBG) non-entitlement area funds under the Texas Community Development Program, without changes to the proposed text as published in the June 4, 1996, issue of the *Texas Register* (21 TexReg 4929).

The repeal eliminates the Interim Financing Fund as a separate fund category that was previously available under this section.

A new Housing Demonstration Fund section, §9.10, establishing the standards and procedures by which TDHCA will allocate fiscal year 1996 housing demonstration funds, is being adopted to replace this section.

No comments were received regarding the adoption of the repealed section.

The repeal is adopted under Texas Government Code, Chapter 2306, §2306.098, which provides TDHCA with the authority to allocate Community Development Block Grant non-entitlement area funds to eligible counties and municipalities according to department rules.

§9.10. Interim Financing Fund.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 10, 1996.

TRD-9610110
Larry Paul Manley
Executive Director
Texas Department of Housing and Community Affairs
Effective date: August 5, 1996
Proposal publication date: June 4, 1996
For further information, please call: (512) 475-3916



The Texas Department of Housing and Community Affairs (TDHCA) adopts a new §9.10 concerning the allocation of Community Development Block Grant (CDBG) non-entitlement

area funds under the Texas Community Development Program, without changes to the proposed text as published in the June 4, 1996, issue of the *Texas Register* (21 TexReg 4929).

The new section establishes the standards and procedures by which TDHCA will allocate fiscal year 1996 housing demonstration funds.

The new section includes housing demonstration fund application requirements and selection procedures.

No comments were received regarding the adoption of the new section.

The new section is adopted under Texas Government Code, Chapter 2306, §2306.098, which provides TDHCA with the authority to allocate Community Development Block Grant non-entitlement area funds to eligible counties and municipalities according to department rules.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 10, 1996.

TRD-9610111
Larry Paul Manley
Executive Director
Texas Department of Housing and Community Affairs
Effective date: August 5, 1996
Proposal publication date: June 4, 1996
For further information, please call: (512) 475-3916



TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter E. Texas Catastrophe Property Insurance Association

Plan of Operation

28 TAC §5.4001

The Commissioner of Insurance adopt an amendment to §5.4001, concerning the plan of operation of the Texas Catastrophe Property Insurance Association (TCPPIA), without changes to the proposed text as published in the May 10, 1996 issue of the *Texas Register* (21 TexReg 3998).

The amendment was considered and adopted by the Commissioner of Insurance in a public hearing on June 20, 1996, Docket Number 2229.

Pursuant to the Catastrophe Property Insurance Pool Act (Article 21.49 of the Insurance Code), the TCPPIA was created by the Texas legislature in 1971 and is composed of all property insurers authorized to transact property insurance in Texas. The purpose of the TCPPIA is to provide windstorm and hail insurance coverage to residents in designated catastrophe areas who are unable to obtain such coverage in the voluntary

market. Since its inception, the TCPIA has provided this coverage to residents of 14 coastal counties, including Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio and Willacy. Pursuant to Commissioner's Order Number 95-1200 (November 14, 1995), effective March 1, 1996, the TCPIA also provides coverage to residents in two additional coastal areas—the area located east of the boundary line of State Highway 146 and inside the city limits of the City of Seabrook (Harris County) and the area located east of the boundary line of State Highway 146 and inside the city limits of the City of La Porte (Harris County). Pursuant to Commissioner's Order Number 96-0380 (April 5, 1996), effective June 1, 1996, the TCPIA provides coverage to residents in the City of Morgan's Point (Harris County). The adopted amendments are necessary to amend subsection (e) of the TCPIA plan of operation, relating to Building Codes, to include the City of Morgan's Point as a designated catastrophe area that is subject to the TCPIA building code specifications and standards and to the Department's Windstorm Inspection Program.

Subsection (e)(3), relating to limitations on the applicability of building codes, specifies the designated areas to which the TCPIA building code standards apply. An amendment is adopted to subsection (e)(3) to add a new subparagraph (C) to specify that the City of Morgan's Point (Harris County) is subject to the building code requirements set forth in subsection (e) of the plan of operation. Subsection (e)(4) is amended to add a new subparagraph (D) to provide that a structure constructed, repaired, or to which additions were made on and after January 1, 1988 and before June 1, 1996, that is located in the City of Morgan's Point shall be considered approved by the Commissioner of Insurance as being in compliance with the TCPIA's inland building code requirements contained in paragraph 2 of subsection (e) (Standard Building Code, 1973 Edition) and, therefore, shall be considered insurable property by the TCPIA if the owner of the structure presents to the TCPIA at the time of application a statement, as specified in subparagraph (D), signed by a city building official. In the statement, the city building official shall affirm that to his/her best belief and knowledge, the structure to be insured by the TCPIA was constructed, repaired, or an addition was made on and after January 1, 1988 and before June 1, 1996, in accordance with building specifications and standards which comply with the Standard Building Code (1973 Edition) or an equivalent recognized code, and that the City of Morgan's Point has inspected the structure and enforced compliance to said code. Subsection (e)(4) is also amended to add a new subparagraph (E) to provide that a structure constructed, repaired, or to which additions were made on and after June 1, 1996, that is located in the City of Morgan's Point shall be considered insurable property for windstorm and hail insurance from the TCPIA only if the structure is inspected or approved by the Commissioner of Insurance for compliance with building specifications as provided in the plan of operation, including any specifications for roofing materials as provided in Article 21.49, §6A(a) of the Insurance Code. Subparagraphs (A), (B), and (C) of subsection (e)(4) are amended to add catchlines for easier reference. These amendments are adopted to be effective July 15, 1996.

No comments were received regarding the adoption of the amendment.

The amendment is adopted pursuant to the Insurance Code, Articles 21.49 and 1.03A, and the Government Code, §§2001.004-2001.038. Article 21.49, §3(h) authorizes the Commissioner to designate a city or a part of a city or a county or a part of a county as a catastrophe area to be served by the TCPIA upon determination, after notice of not less than 10 days and hearing, that windstorm and hail insurance is not reasonably available to a substantial number of owners of insurable property within that city or a part of that city or county or a part of that county that is subject to unusually frequent and severe damage resulting from windstorms and/or hailstorms. Pursuant to Commissioner's Order Number 96-0380, effective June 1, 1996, the City of Morgan's Point is designated by the Commissioner of Insurance as a catastrophe area eligible for windstorm and hail insurance coverage through the TCPIA. Article 21.49, §6A specifies building code requirements and approval or inspection procedures for windstorm and hail insurance through the TCPIA. Article 21.49, §5(c) of the Insurance Code provides that the Commissioner of Insurance by rule shall adopt the TCPIA plan of operation with the advice of the TCPIA board of directors. Section 5(f) of Article 21.49 provides that any interested person may petition the Commissioner to modify the plan of operation in accordance with the Administrative Procedure Act (Government Code, title 10, subtitle A, ch. 2001). Article 21.49, §5, subsections (c) and (f), by their terms, delegate the foregoing authority to the State Board of Insurance. However, under Article 1.02 of the Insurance Code, a reference in the Insurance Code or another insurance law to the State Board of Insurance means the Commissioner of Insurance or the Texas Department of Insurance, as consistent with the respective powers and duties of the Commissioner and the Department under Article 1.02. Article 1.03A authorizes the Commissioner of Insurance to adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute. The Government Code, §§2001.004-2001.038 (Administrative Procedure Act) authorize and require each state agency to adopt rules of practice stating the nature and requirements of available formal and informal procedures and prescribe the procedures for adoption of rules by a state agency.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 24, 1996.

TRD-9610125

Alicia M. Fechtel

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: July 15, 1996

Proposal publication date: May 10, 1996

For further information, please call: (512) 463-6327



Manual

28 TAC §5.4501

The Commissioner of Insurance adopts an amendment to §5.4501, concerning the adoption by reference of a revised manual of rules governing the writing of windstorm and hail insurance by the Texas Catastrophe Property Insurance Association (TCPIA), without changes to the proposed text as published in the May 10, 1996 issue of the *Texas Register* (21 TexReg 4000).

The amendment was considered and adopted by the Commissioner of Insurance in a public hearing on June 20, 1996, Docket Number 2230.

Pursuant to the Catastrophe Property Insurance Pool Act (Article 21.49 of the Insurance Code), the TCPIA was created by the Texas legislature in 1971 and is composed of all property insurers authorized to transact property insurance in Texas. The purpose of the TCPIA is to provide windstorm and hail insurance coverage to residents in designated catastrophe areas who are unable to obtain such coverage in the voluntary market. Currently, the TCPIA provides this coverage to residents of 14 coastal counties, including Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, and Willacy. Pursuant to Commissioner's Order Number 95-1200 (November 14, 1995), effective March 1, 1996, the TCPIA also provides coverage to residents in two additional coastal areas—the area located east of the boundary line of State Highway 146 and inside the city limits of the City of Seabrook (Harris County) and the area located east of the boundary line of State Highway 146 and inside the city limits of the City of La Porte (Harris County). Pursuant to Commissioner's Order Number 96-0380 (April 5, 1996), effective June 1, 1996, the City of Morgan's Point (Harris County) became eligible for coverage through the TCPIA. The revised manual is necessary to incorporate rule amendments to provide for the applicability of the TCPIA's building code and inspection requirements to the newly designated catastrophe area of the City of Morgan's Point.

Rule C, relating to Determination of Territory (Catastrophe Areas), in Section I—General Rules of the revised manual is amended to add a new subdivision 3 to include the City of Morgan's Point (Harris County) as a designated catastrophe area eligible for TCPIA coverage. Rule D, relating to Insurable Property, in Section I—General Rules, is amended (i) to designate as subdivision 4-a the current provisions relating to approval requirements for structures constructed, repaired, or to which additions were made on and after January 1, 1988, and before March 1, 1996, in the designated catastrophe areas in the cities of Seabrook and La Porte and (ii) to add a new subdivision 4-b to provide that structures constructed, repaired or to which additions were made on and after January 1, 1988 and before June 1, 1996 that are located in the City of Morgan's Point are approved as complying with the TCPIA inland building code (1973 Edition, Standard Building Code) if the City of Morgan's Point has issued to the owner of the property a statement signed by a city building official that the structure was constructed, repaired, or an addition was made in accordance with the building specifications and standards which comply with the Standard Building Code, (1973 Edition) or an equivalent recognized code; and the City of Morgan's Point inspected the structure and enforced compliance to said code. Under the adopted amendment, this signed statement must be provided to the TCPIA upon applica-

tion to the TCPIA for windstorm and hail insurance and shall be considered evidence of the insurability of the structure by the TCPIA. Rule D is also amended to add a new subdivision 5-b to provide that a structure constructed, repaired, or to which additions were made on and after June 1, 1996, that is located in the City of Morgan's Point, and that has been certified by the Texas Department of Insurance as being in compliance with the building specifications of the plan of operation shall be considered insurable property by the TCPIA. A certificate of compliance (Form WPI-8) issued by the Texas Department of Insurance shall be considered evidence of insurability of the structure by the TCPIA. The revised manual is adopted to be effective July 15, 1996.

No comments were received regarding the adoption of the amendment.

The amendment is adopted pursuant to the Insurance Code, Articles 21.49 and 1.03A, and the Government Code, §§2001.004-2001.038. Article 21.49, §3(h) authorizes the Commissioner to designate a city or a part of a city or a county or a part of a county as a catastrophe area to be served by the TCPIA upon determination, after notice of not less than 10 days and hearing, that windstorm and hail insurance is not reasonably available to a substantial number of owners of insurable property within that city or a part of that city or county or a part of that county that is subject to unusually frequent and severe damage resulting from windstorms and/or hailstorms. Pursuant to Commissioner's Order Number 96-0380, effective June 1, 1996, the City of Morgan's Point is designated by the Commissioner of Insurance as a catastrophe area eligible for windstorm and hail insurance coverage through the TCPIA. Article 21.49, §6A specifies building code requirements and approval or inspection procedures for windstorm and hail insurance through the TCPIA. Article 21.49, §5A authorizes the Commissioner, after notice and hearing, to issue any orders which the Commissioner considers necessary to carry out the purposes of Article 21.49, including, but not limited to, maximum rates, competitive rates and policy forms. Article 21.49, §8 authorizes the Commissioner to approve every manual of classifications, rules, rates, rating plans, and every modification of any of the foregoing for use by the TCPIA. Articles 21.49, §§5A, 6A, and 8, by their terms delegate the foregoing authority to the State Board of Insurance; however, under Article 1.02 of the Insurance Code, a reference in the Insurance Code or another insurance law to the State Board of Insurance means the Commissioner of Insurance or the Texas Department of Insurance, as consistent with the respective powers and duties of the Commissioner and the Department under Article 1.02. Article 1.03A authorizes the Commissioner of Insurance to adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute. The Government Code, §§2001.004-2001.038 (Administrative Procedure Act) authorize and require each state agency to adopt rules of practice stating the nature and requirements of available formal and informal procedures and prescribe the procedures for adoption of rules by a state agency.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 24, 1996.

TRD-9610126

Alicia M. Fechtel

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: July 15, 1996

Proposal publication date: May 10, 1996

For further information, please call: (512) 463-6327

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 7. Memoranda of Understanding

30 TAC §7.101

The commission adopts new §7.101, concerning entering into a Memorandum of Understanding (MOU) with the Texas Department of Commerce (TDOC), without changes to the proposed text as published in the April 12, 1996, issue of the *Texas Register* (21 TexReg 3145).

The purpose of the MOU is to coordinate assistance to small businesses applying for environmental permits. The MOU will allow the commission and the TDOC to coordinate their activities and programs directed toward small businesses in a more efficient manner. The addition of this section will satisfy statutory requirements established in Texas Health and Safety Code, §382.0365(e) and Texas Government Code, §§481.028, 481.123, and 481.129.

The agency has conducted a Takings Impact Assessment and determined this rule will have no affect on private real property.

A public hearing on the proposal was held May 2, 1996, in Austin. The comment period closed on May 16, 1996. There was no oral testimony given during the public hearing. However, the commission received written testimony on the proposal from an individual asking for inclusion in any materials given to the TDOC giving information about the health and welfare costs of pollution and the benefit costs of reducing air pollution. One of the duties of the commission listed in the MOU requires the commission to research costs related to pollution control equipment and pollution prevention techniques. The commission will provide to the TDOC any results of that research.

The new section is adopted under Texas Water Code, §§5.103, 5.105, 13.041, 26.011, 27.019, 32.009, 33.007, and 34.006 and Texas Health and Safety Code, §§341.002, 341.031, 361.011, 361.017, 361.024, 366.012, 382.017, 401.011, 401.051, and 401.412, which provide the commission with the authority to adopt the rules necessary to carry out its powers and duties.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 10, 1996.

TRD-9610107

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Effective date: August 5, 1996

Proposal publication date: April 12, 1996

For further information, please call: (512) 239-1966

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter V. Franchise Tax

34 TAC §3.576

The Comptroller of Public Accounts adopts new §3.576, concerning earned surplus: allocation, without changes to the proposed text as published in the March 19, 1996, issue of the *Texas Register* (21 TexReg 2204).

This new section is the result of new Tax Code, §171.1061.

Comments were received from General Motors Corporation. GM suggested that subsection (a) was an attempt to make the rule retroactive. They also commented that the comptroller had no authority to create a presumption that all income is unitary, as stated in subsection (b). The firm's final comment was that the rule did not define the term "related expenses" as used in subsection (c)(3). The comptroller declined to make the suggested changes because to do otherwise would be contrary to the franchise tax law and United States Supreme Court decisions, including *Allied Signal, Inc. v. Director*, 504 U.S. 768 (1992).

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §171.1061.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1996.

TRD-9609979

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Effective date: August 1, 1996

Proposal publication date: March 19, 1996

For further information, please call: (512) 463-4028

Part IV. Employees Retirement System of Texas

Chapter 73. Benefits

34 TAC §73.37

The Employees Retirement System of Texas adopts new §73.37, concerning plan limitations resulting from changes in the federal tax law, without changes to the proposed text as published in the May 17, 1996, issue of the *Texas Register* (21 TexReg 4302).

This new section will implement federal tax legislation limiting a member's compensation for pension purposes to limits set forth in the Internal Revenue Code. It will also provide "grandfather" protection to those persons employed as August 31, 1996.

This new section is needed in order for the plans to remain qualified plans.

No comments were received regarding adoption of the new section.

The new section is adopted under Government Code, §815.507, concerning the Plan Qualifications which gives the Employees Retirement System of Texas the authority to adopt rules to maintain plan qualifications.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 15, 1996.

TRD-9610099

Charles D. Travis

Executive Director

Employees Retirement System of Texas

Effective date: August 5, 1996

Proposal publication date: May 17, 1996

For further information, please call: (512) 867-3336



Chapter 77. Judicial Retirement

34 TAC §77.17

The Employees Retirement System of Texas adopts new §77.17, concerning plan limitations resulting from changes in the federal tax law, without changes to the proposed text as published in the May 17, 1996, issue of the *Texas Register* (21 TexReg 4303).

This new section will implement federal tax legislation limiting a member's compensation for pension purposes to limits set forth in the Internal Revenue Code. It will also provide "grandfather" protection to those persons employed as of August 31, 1996.

This new section is needed in order for the plans to remain qualified plans. The new section applies to the Judicial Retirement System of Texas Plan Two.

No comments were received regarding adoption of the new section.

The new section is adopted under Government Code, §840.406, concerning Plan Qualifications which gives the Employees Retirement System of Texas the authority to adopt rules to maintain plan qualifications.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 15, 1996.

TRD-9610100

Charles D. Travis

Executive Director

Employees Retirement System of Texas

Effective date: August 5, 1996

Proposal publication date: May 17, 1996

For further information, please call: (512) 867-3336



Chapter 85. Flexible Benefits

34 TAC §85.7

The Employees Retirement System of Texas (ERS) adopts an amendment to § 85.7, concerning eligible changes in family status in the Flexible Benefits (Cafeteria Plan), without changes to the proposed text as published in the May 24, 1996 issue of the *Texas Register* (21 TexReg 4522).

These adopted changes will enhance benefits available to state employees, enabling the state to continue to attract qualified persons into the workforce.

This rule is being amended to provide plan participants broader opportunities to make changes in their plan outside of annual enrollment.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 3.50-2, §4A, which provides the ERS with the authority to promulgate all rules and regulations necessary to implement and to administer a Flexible Benefits (Cafeteria Plan).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 15, 1996.

TRD-9610098

Charles D. Travis

Executive Director

Employees Retirement System of Texas

Effective date: September 1, 1996

Proposal publication date: May 24, 1996

For further information, please call: (512) 867-3336



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 19. Nursing Facility Requirements for Licensure and Medicaid Certification

Subchapter S. Reimbursement Methodology for Nursing Facilities

40 TAC §19.1807

The Texas Department of Human Services (DHS) adopts an amendment to §19.1807, with a change to the proposed text as published in the March 19, 1996, issue of the *Texas Register* (21 TexReg 2213).

Justification for the amendment is to include more residents who are not currently eligible for the ventilator reimbursement supplement.

The amendment will function by allowing additional nursing facility Medicaid recipients to participate in the ventilator-dependent supplemental reimbursement. The amendment will also allow facilities to receive supplemental reimbursement for recipients who require less-than-continuous ventilation.

A correction of error concerning the preamble was published in the April 12, 1996, issue of the *Texas Register* (21 TexReg 3268).

The department received one comment from the Texas Health Care Association concerning the amendment.

Comment: The costs for residents requiring less-than-continuous ventilation are not lower than those for residents requiring continuous ventilation because the facility still has the cost of the ventilator equipment twenty-four hours a day and, in addition, the nursing time required to monitor for possible immediate intervention is not reduced. The department should consider reimbursing 100% of the per diem ventilator rate supplement for residents requiring less-than-continuous artificial ventilation daily.

Response: The initial supplemental reimbursement for continuous ventilation was calculated based on residents with tracheostomies who needed continuous ventilation and, as a result, required extensive nursing care to prevent infection, etc. Residents requiring less-than-continuous ventilation are often sleep apnea victims receiving BiPAP (bilevel positive airway pressure) or CPAP (continuous positive airway pressure) without a tracheostomy. Consequently, the department believes that the proposed new supplement is an equitable method of reimbursing facilities for the care they provide to residents with less-than-continuous ventilation. A provider who serves multiple residents who will qualify for the proposed new supplement for less-than-continuous ventilation has indicated that the proposed new ventilator supplement was adequate.

The department made one change to §19.1807(b)(3)(F) to specify the date when qualifying residents may receive a supplement to the per diem rate.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs, and under Texas Government Code, §531.021, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code, §§22.001-22.024 and §§32.001-32.042.

§19.1807. *Rate Setting Methodology.*

(a) (No change.)

(b) Rate determination. The Texas Board of Human Services determines general reimbursement rates for medical assistance programs for Medicaid recipients under provisions of the Human Resources Code, Chapter 24 (relating to Reimbursement Methodology). The Texas Board of Human Services determines reimbursement rates for nursing facilities based on consideration of Texas Department of Human Services (DHS) staff recommendations. To develop reimbursement rate recommendations for nursing facilities, DHS staff apply the following procedures.

(1)-(2) (No change.)

(3) Per diem rate methodology. Staff determine per diem rate recommendations for each of the 11 TILE groups and for the default group according to the following procedures:

(A)-(E) (No change.)

(F) Supplemental reimbursement for ventilator-dependent residents. As of March 1, 1996, qualifying residents may receive a supplement to the per diem rate specified in paragraph (3)(E) of this subsection.

(i) To qualify for supplemental reimbursement, a resident must require artificial ventilation for at least six consecutive hours daily and the use must be prescribed by a licensed physician.

(ii) A ventilator-dependent resource differential case mix index is calculated, based on time- study research data. This resource differential index reflects the difference between direct nursing services for ventilator-dependent residents and services for residents in the most severe heavy-care TILE group. The per diem rate supplement is calculated by multiplying the resource differential case mix index times the per diem average recipient care rate component, as described in subparagraph (C) of this paragraph.

(I) The supplemental reimbursement for residents requiring continuous artificial ventilation is 100% of the per diem ventilator rate supplement.

(II) The supplemental reimbursement for residents not requiring continuous artificial ventilation daily but requiring artificial ventilation for at least six consecutive hours daily is 40% of the per diem ventilator rate supplement.

(4)-(5) (No change.)

(c)-(e) (No change.)

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 15, 1996.

TRD-9610109

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: August 5, 1996

Proposal publication date: March 19, 1996

For further information, please call: (512) 438-3765

TEXAS DEPARTMENT OF INSURANCE

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

As required by the Insurance Code, Article 5.96 and 5.97, the *Texas Register* publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the *Texas Register* not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the *Texas Register* not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure Act, the Government Code, Chapters 2001 and 2002, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

Texas Department of Insurance

Notification Pursuant to the Texas Insurance Code, Chapter 5, Subchapter L, Article 5.96

The Commissioner of Insurance will hold a public hearing under Docket Number 2240 on August 26, 1996, at 10:00 a.m., in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider a petition by the staff of the Texas Department of Insurance proposing the adoption of amendments to the revised Texas Residential Property Statistical Plan ("the revised Plan").

The petition requests consideration of five amendments to the revised Plan: (1) An amendment to note the designation of the Texas Insurance Checking Office (TICO) as the new statistical agent for residential property insurance in Texas and to indicate that transmittal forms which accompany data submissions must be submitted to TICO; (2) an amendment which deletes reporting requirements and instructions for the Foundation Exclusion endorsement and adds reporting requirements and instructions for the Tear Out endorsement; (3) an amendment which adds reporting requirements and instructions for the use of Property Protection Plan policy forms and endorsements; (4) an amendment which adds reporting requirements and instructions for the use of new large deductibles and; (5) an amendment to drop the term "revised" from the title of the revised Texas Residential Property Statistical Plan.

The Texas Insurance Checking Office was designated as the new Texas residential property statistical agent effective April 10, 1996 pursuant to Commissioner's Order Number 96-0396. The proposed change to the revised Plan is necessary to reflect this fact and ensure that companies file data transmittal forms with the correct entity.

The Foundation Exclusion endorsement was never implemented and will not be used. There is no longer a need for reporting requirements and instructions in the revised Plan for this endorsement.

Commissioner's Order Number 95-1261 dated December 1, 1995 approved a series of endorsements as listed in the petition which restrict residential property coverage for the cost of tearing out and replacing any part of a building and land necessary to access, repair

or replace that part of a plumbing drain system located within or under the slab or foundation of coverage. The proposed changes to the revised Plan are necessary to capture premium, exposure and loss experience associated with the use of these endorsements to monitor the use of these endorsements in the market place and to develop the information necessary to evaluate the pricing of these endorsements. Companies licensed and writing residential property insurance in Texas shall report these new data elements, effective with October 1, 1996 experience.

The Commissioner was granted the authority to designate areas as underserved for residential property insurance by the 74th Legislature through Article 5.35-3 of the Texas Insurance Code. Commissioner's Order Number 95-1285 dated December 8, 1995 approved the Property Protection Plan which allows the addition or restriction of coverage through a variety of endorsements noted in the petition with the intent of improving the availability of residential property insurance in certain areas of Texas designated as underserved. The proposed changes to the revised Plan are necessary to capture premium, exposure and experience of policies and endorsements issued under the Property Protection Plan to monitor the use of these policies and endorsements in the market place, to develop the information necessary for the pricing of these policies and endorsements and to verify the amount of premium written for policies and endorsements issued under the Property Protection Plan for purposes of premium tax credits. Companies licensed and writing residential property insurance in Texas shall report these new data elements, effective with October 1, 1996 experience.

Commissioner's Order Number 95-1084 dated October 17, 1995 approved new deductible levels for residential property policies. The proposed changes to the revised Plan are necessary to capture premium, exposure and loss experience associated with the use of the new large deductible amounts to monitor the use of the new deductible amounts in the market place and to develop the information necessary for the pricing of these deductibles. Companies licensed and writing residential property insurance in Texas shall report these new data elements, effective with October 1, 1996 experience.

Staff believes the continued use of the word "revised" in the title of the revised Plan is unnecessarily confusing. The term

"revised" was originally used to refer to the revised Texas Residential Property Statistical Plan adopted by the Commissioner of Insurance on December 1, 1994 under Commissioner's Order Number 94-1291. Continued use of the title "revised Texas Residential Property Statistical Plan" as additional revisions are made is unnecessary and may create confusion in future references. This change becomes effective October 1, 1996.

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 5.96, 5.97, 5.25, 5.28, 5.98 and 21.69. Articles 5.96 and 5.97 authorize the filing of this petition. Articles 5.25, 5.28, 5.98 and 21.69 authorize the action requested of the Commissioner.

Article 5.25 authorizes the Commissioner to designate an agent to gather, audit, and compile experience of insurers writing fire and allied lines. Article 5.28 authorizes the Commissioner to gather data the Commissioner deems appropriate in determining reasonable and appropriate rates for fire and allied lines. Article 5.98 authorizes the Commissioner to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5 of the Insurance Code. Article 21.69 authorizes the Commissioner to contract with or designate an entity to compile and maintain historical premium and loss data pursuant to statistical plans adopted by the Commissioner.

Copies of the full text of the staff petition and the proposed amendments are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin,

Texas, 78714-9104. For further information or to request copies of the petition and proposed amendments, please contact Angie Arizpe at (512) 463-6326 (refer to Reference Number P-0796-30-I).

Comments on the proposed changes must be submitted in writing within 30 days after publication of the proposal in the *Texas Register* to the Office of the Chief Clerk, P.O. Box 149104, MC113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Birny Birnbaum, Associate Commissioner for Policy and Research, P.O. Box 149104, MC113-1C, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, chapter 2001).

This agency hereby certifies that the proposed has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 17, 1996.

TRD-9610265

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: July 17, 1996

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TABLES AND GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as “Figure 1” followed by the TAC citation,

Figure 1: 16 TAC

Section
33.23(a)

Liquor Permits [All]

Agent's Permit	\$11.00[\$ 9.00]
Airline Beverage Permit	\$22.00[\$18.00]
Beverage Cartage Permit	\$17.00[\$14.00]
Bonded Warehouse Permit	\$7.00[\$ 6.00]
Bonded Warehouse Permit (Dry Area)	\$7.00[\$ 6.00]
Brewer's Permit	\$44.00[\$37.00]
Brewpub License	\$17.00[\$14.00]
Carrier's Permit	\$16.00[\$13.00]
Caterer's Permit	\$13.00[\$10.00]
Daily Temporary Mixed Beverage Permit (Per Day)	\$17.00[\$14.00]
Daily Temporary Private Club Registration Permit	\$17.00[\$14.00]
Distiller's & Rectifier's Permit	\$16.00[\$13.00]
Food and Beverage Certificate	\$24.00
Industrial Permit	\$26.00[\$22.00]
Local Cartage Permit	\$11.00[\$ 9.00]
Local Distributor's Permit	\$13.00[\$10.00]
Local Industrial Alcohol Manufacturer's Permit	\$14.00[\$12.00]
Manufacturer's Agent's Permit	\$11.00[\$ 9.00]
Market Research Packager's Permit	\$8.00[\$ 7.00]
Medicinal Permit	-0-
Minibar Permit	\$22.00[\$18.00]
Mixed Beverage Permit	\$24.00[\$20.00]
Mixed Beverage Late Hours Permit	\$19.00[\$16.00]
Non Resident Brewer's Permit	\$8.00[\$ 7.00]
Non Resident Seller's Permit	\$17.00[\$14.00]
Package Store Permit	\$13.00[\$10.00]
Package Store Tasting Permit	\$5.00[\$ 4.00]
Wine Only Package Store Permit	\$13.00[\$10.00]
Passenger Train Beverage Permit	\$20.00[\$16.00]
Physician's Permit	-0-
Private Carrier's Permit	\$14.00[\$12.00]
Private Club Exemption Certificate Permit	-0-
Private Club Registration Permit	\$31.00[\$26.00]
Private Club Beer and Wine Permit	\$22.00[\$18.00]
Private Club Late Hours Permit	\$19.00[\$16.00]
Private Storage Permit	\$5.00[\$ 4.00]
Public Storage Permit	\$8.00[\$ 4.00]
Wholesaler's Permit	\$35.00[\$29.00]
General Class B Wholesaler's Permit	\$35.00[\$29.00]
Local Class B Wholesaler's Permit	\$35.00[\$29.00]
Wine and Beer Retailer's Permit Railway Car	\$14.00[\$12.00]
Wine and Beer Retailer's Permit Excursion Boat	\$15.00[\$12.00]

Wine Bottler's Permit	\$35.00[\$29.00]
Winery Permit	\$47.00[\$39.00]
Winery Storage Permit	\$10.00[\$ 8.00]
Beer Licenses	
Agent's Beer License	\$11.00[\$ 9.00]
Branch Distributor's License	\$35.00[\$29.00]
General Distributor's License	\$35.00[\$29.00]
Importer's License	\$25.00[\$21.00]
Importer's Carrier's License	\$9.00[\$ 8.00]
Local Distributor's License	\$28.00[\$24.00]
Manufacturer's License	\$44.00[\$37.00]
Manufacturer's Warehouse License	\$31.00[\$26.00]
Non Resident Manufacturer's License	\$17.00[\$14.00]
Beer Retailer's Off Premise License	\$13.00[\$10.00]
Beer Retailer's On Premise License	\$13.00[\$10.00]
Retail Dealer's On Premise Late Hours License	\$13.00[\$10.00]
Temporary License	\$11.00[\$ 9.00]
Wine and Beer Retailer's Permit	\$13.00[\$10.00]
Wine and Beer Retailer's Off Premise Permit	\$13.00[\$10.00]

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the ***Texas Register***.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the ***Texas Register***.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Commission on Alcohol and Drug Abuse

Friday, July 26, 1996, 2:00 p.m.

3930 Kirby Street, Suite 207, Texas Youth Commission

Houston

Regional Advisory Consortium (RAC), Region 6

AGENDA

Regional Advisory Consortium (RAC), Region 6

Call to Order: Approval of Minutes; Welcome and Introductions; Committee reports and Approval; Public comment; New Business; and Adjournment.

Contact: Carlene Phillips, 710 Brazos, Austin, Texas 78701, (512) 867-8897.

Filed: July 16, 1996, 3:32 p.m.

TRD-9610228

Texas Cosmetology Commission

Wednesday, July 31, 1996, 4:00 p.m.

2121 Panoramic Circle, Pro-Lines Conference Room

Dallas

AGENDA:

Call to Order: Excuses from Absent Members; Approval of Commission Minutes from June 3, 1996 and July 15, 1996 Meetings; Report from Continuing Education Committee Meeting; Discussion of Legislative Appropriations Report and Possible Vote; Executive Session; Reconvene in Open Session and Possibly Vote on Necessary Matters; Adjourn.

Contact: Catherine D. Nahay, 5717 Balcones Drive, P.O. Box 26700, Austin, Texas 78755-0700, (512) 454-4674.

Filed: July 16, 1996, 9:18 a.m.

TRD-9610164



Texas Commission for the Deaf and Hard of Hearing

Tuesday, July 23, 1996, 9:00 a.m.

4800 North Lamar Boulevard, Suite 250

Austin

Board for Evaluation of Interpreters

AGENDA

Call to Order/Determination of Quorum; Approval of June 14 Meeting Minutes; Public Comment; Correspondence; Reports; 1. Chairperson, 2. Vice-Chair, 3. Secretary, 4. Staff, 5. TSID Representative to the BEI;

Executive Session: 1. Grievances, 2. Complaints; Unfinished Business: 1. Selection of Consultants: a. Analysis, b. Evaluation Materials Development, c. Written Test Development, d. Intermediary Materials Development; 2. New Evaluators, 3. Annual Evaluator Training;

New Business: 1. Certification, Recertification, Reinstatement, Revocation; 2. Calendar Update; 3. Suspension of Oral Testing Materials; 4. New Board Member(s); Announcements; Adjourn.

Contact: Margaret Susman, 4800 N. Lamar Boulevard, #310, Austin, Texas 78756, (512) 451-8494.

Filed: July 17, 1996, 9:29 a.m.

TRD-9610263

Interagency Council on Early Childhood Intervention

Thursday, July 25, 1996, 8:30 a.m.

1100 West 49th Street

Austin

Board

AGENDA:

Interagency Council on Early Childhood Intervention Internal Audit Subcommittee Meeting Room M-543; Public comment; Discussion and Approval of Minutes from June 27, 1996 Meeting; Discussion and Approval of Subcommittee Recommendation on Internal Audit Report for Provider Funding; discussion and Approval of Advisory Committee and Director's Forum Report; Discussion and Approval of Funding for comprehensive and Milestone in Fiscal Year 1997; Discussion and Approval of the Legislative Appropriations Request for Biennium Beginning September 1, 1997; Discussion of policy and Fiscal Impacts Related to "Mock" Fee Policy; FYI: Update on Action taken on Emergency Funding Requests.

Contact: Donna Samuelson, 1100 West 49th Street, Austin, Texas, 78752, (512) 502-4900.

Filed: July 15, 1996, 4:14 p.m.

TRD-9610153

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Texas Education Agency (TEA)

Monday, August 5, 1996, 8:30 a.m.

Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Room 6-101

Austin

Texas Environmental Education Advisory Committee (TEEAC)

REVISED AGENDA:

Welcome to New Members, Constitutional Amendments, Review of the Texas Essential Knowledge and Skills (TEKS); Report on the work of the State Education and Environment Roundtable; Reports on 19 TAC Chapter 74 Curriculum Requirement Revisions; Discussion of the Use of the TEEAC Certificate of Recognition in the Teacher Certification Process; Sub-Committee Appointments; Annual Training for TEEAC Sites.

Contact: Irene Pickhardt, TEA, 1701 N. Congress Avenue, Austin, Texas 78701, (512) 463-9556.

Filed: July 16, 1996, 9:31 a.m.

TRD-9610166

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Division of Emergency Management

Tuesday, July 30, 1996, 2:00 p.m.

5805 North Lamar Boulevard, Emergency Operating Center (EOC)

Austin

State Emergency Management Council

AGENDA:

LEPC Conference in Waco, September 1996

Approval of LEPC membership updates

Review of planning and training grants awarded and/or in progress under the Hazardous Materials Emergency Planning (HMEP) program

Texas Tier II and hazardous chemical spills reporting trends

The new Risk Management Program under the Clean Air Act

Discussion: Statewide Hazardous Materials Commodity Flow Study

Discussion: Hazardous Materials Regional Response Teams

Contact: Frank Cantu, Jr., 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 424-2454, Fax (512) 424-2444

Filed: July 15, 1996, 11:56 a.m.

TRD-9610127

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Tuesday, July 30, 1996, 2:00 p.m.

5805 North Lamar Boulevard, Emergency Operating Center (EOC)

Austin

State Emergency Management Council

AGENDA:

LEPC Conference in Waco, September 1996

Approval of LEPC membership updates

Review of planning and training grants awarded and/or in progress under the Hazardous Materials Emergency Planning (HMEP) program

Texas Tier II and hazardous chemical spills reporting trends

The new Risk Management Program under the Clean Air Act

Discussion: Statewide Hazardous Materials Commodity Flow Study

Discussion: Hazardous Materials Regional Response Teams

Contact: Frank Cantu, Jr., 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 424-2454, Fax (512) 424-2444

Filed: July 15, 1996, 12:43 p.m.

TRD-9610129

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State Employee Charitable Campaign

Wednesday, July 24, 1996, 12:00 noon

1212 North Velasco

Angelton

Local Employee Committee- Brazoria

AGENDA:

1. Call to Order

2. Review Minutes of June 19, 1996

3. Review plans for campaign Kickoff
4. Update on campaign implementation in key accounts
5. Preview campaign video (if available)
6. Schedule next meeting and agenda

Contact: Esther M. Bernard, P.O. Box 1959, Angleton, Texas 77516,
(409) 849-9402
Filed: July 16, 1996, 9:32 a.m.

TRD-9610172



Texas State Affordable Housing Corporation

Friday, July 26, 1996, 3:00 p.m.

507 Sabine Street, Room 437

Austin

Board Meeting

AGENDA

The Board of Texas State Affordable Housing Corporation will meet to consider and possibly act on: Approval of Minutes of April 29, 1996; Second Amendment and Restatement of Articles of Incorporation; Asset Oversight Agreement for Harbors, Plumtree, Dallas/Fort Worth Apartments Pool; Vice-President; Signature Authority for Officers and Employees; Sale of Aspen Oaks Apartments to Tarrant County Housing Partnership, Inc.; Warehouse Line for Master Servicer for Programs 49 and 50; Cancellation of Grant from the Department to the Corporation regarding "Homes for Dallas Project"; Executive Session-Personnel Matters; Adjourn.

Contact: Larry Paul Manley, 811 Barton Springs Road, Suite 500,
Austin, Texas 78704, (512) 475-3934.
Filed: July 16, 1996, 11:51 a.m.

TRD-9610187

Texas Department of Housing and Community Affairs

Thursday, July 25, 1996, 4:00 p.m.

507 Sabine Street, Room 437

Austin

Programs Committee

AGENDA

The Programs Committee of the Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on: Minutes of June 7, 1996 Meeting; HOME/LIHTC Procedures; Amendment of contract with Guadalupe Economic Services; Parkplace Place; Partnership with Bryan; San Antonio Partnership; Tyler Partnership; Beaumont Partnership; HOME Rental Project; Denton Housing Authority Assignment of Loan; Credit Enhancement of \$2,000,000 for Colonias Bond Program; Request for Proposals for SF Home Improvement Program; City of Dallas Grant Agreement; Colonias Initiative of \$2,000,000; Additional General Revenue Funds for Emergency Nutrition Temporary Relief Program; General Revenue Funds for Homeless Block Grant Program; 1996-97 Budget; Executive Session — Personnel Matters; Adjourn.

Contact: Larry Paul Manley, 811 Barton Springs Road, Suite 500,
Austin, Texas 78704, (512) 475-3934.
Filed: July 16, 1996, 11:49 a.m.

TRD-9610186

Friday, July 26, 1996, 8:30 a.m.

507 Sabine Street, Room 437

Austin

Finance Committee

REVISED AGENDA

AGENDA:

The Finance Committee of the Board will meet to consider and possibly act on: Minutes of June 1, 1996 Meeting; List of Bond Trustees; Selection of Trustee for NHP Foundation; Selection of Final Underwriting Allocations for NHP; Consent to Assignment of Limited Partnership for Walden Residential Properties; Designation of CMO Defeasance Funds; Amendment to Final Bond Documents for Mutual Benefit; Authorization of Application for Bond Review Board for Private Activity Allocation and issuance of single family bonds, commercial paper refunding bonds, single family refunding bonds; Grant to Corporation for Homes for Dallas; budget 1996-1997 Budget; Executive Session on Personnel Matters and Verex Litigation; Adjournment.

Contact: Larry Paul Manley, 507 Sabine, #900, Waller Creek Office Building, Austin, Texas 78701, (512) 475-3934.
Filed: July 16, 1996, 11:53 a.m.

TRD-9610188

Friday, July 26, 1996, 10:30 a.m.

507 Sabine Street, Room 437

Austin

Board Meeting

AGENDA

The Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on: Minutes of June 10, 1996 Meeting; Price of Unrated and BBB Rated bonds; List of Bond Trustees; Selection of Trustee for NHP; Final Underwriting Allocations for NHP; Consent of Assignment for Walden Residential Properties; Designation of CMO Defeasance Funds and Ratification of Prior Use of CMO Funds; Amendment to Bond Documents for Mutual Benefit; Application to Bond Review Board for private activity bond allocation and approval of issuance of single family bonds, refunding bonds, and commercial paper; Reconsideration of Grant to Corporation regarding "Homes for Dallas Project"; HOME/LIHTC Procedures; Amendment of Contract with Guadalupe Economic Services; Parkplace Place; Partnership with Bryan; San Antonio Partnership; Tyler Partnership; Beaumont Partnership; HOME Rental Project; Denton Housing Authority Assignment of Loan; Credit Enhancement of \$2,000,000 for Colonias Bond Program; Request for Proposals for SF Home Improvement Program; City of Dallas Grant Agreement; Colonias Initiative of \$2,000,000; Additional General Revenue Funds for Emergency Nutrition Temporary Relief Program; General Revenue Funds for Homeless Block Grant Program; Signature Authority; 1996-1997 Budget; Executive Session- Personnel Matters; Adjourn.

Contact Larry Paul Manley, 811 Barton Springs Road, Suite 500,
Austin, Texas 78701, (512) 475-3934.
Filed: July 16, 1996, 11:58 a.m.

TRD-9610189

Commission on Jail Standards

Friday, July 26, 1996, 9:00 a.m.

William P. Clements Bldg., Committee Room 5, 300 W. 15th Street
Austin

AGENDA:

Call to Order. Roll Call of Commission members. Reading and approval of May 17, 1996 minutes. Old Business: Rockwall County, Runnels County, Grimes County, Webb County. New Business: Burnet County, Taylor City. Review of Variances: Bexar County, Staff Report: Changes to Standards — Proposed, Changes to Standards- Adopt, Review of Fees for Services, Completed Jail Projects, Active Remedial Orders/Cancel/Changes, Status and Composition of Jail Population, Status of Jail Inspection Program, Submittal of Strategic Plan, Request for NIC Grant, Intra-agency Review of Construction Materials, Financial Report/Budget/Grants, Training. Other Business. Executive Session. Adjourn.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

Filed: July 16, 1996, 9:18 a.m.

TRD-9610160

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Board of Law Examiners

Friday, July 26, 1996, 8:30 a.m.

205 W. 14th Street, Tom C. Clark Bldg., Suite 500

Austin

Hearings Panel

AGENDA:

The hearings panel will hold public hearings and conduct deliberations, including the consideration of proposed agreed orders, on the character and fitness of the following applicants and/or declarants: Jon A. Haslett; Allison G. Mullings; Annelva Rowland; Darryl J. Adams; Roger Yale; S. Michael McCown (Character and fitness deliberations may be conducted in executive session, pursuant to §82,003(a), Texas Government Code.)

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: July 15, 1996, 4:17 p.m.

TRD-9610156

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Saturday and Sunday, July 27-28, 1996, 8:30 a.m.

205 W. 14th Street, Tom C. Clark Bldg., Suite 500

Austin

AGENDA :

The Board will call to order and consider: requests for excused absences; approval of minutes, financial and investment reports; rec-

ommendations to Supreme Court concerning Multistate Performance Examination and changes to the Texas Bar Examination; actions under Public Funds Investment Act; recommendations to the Supreme Court concerning statutory amendments; review of exam questions (in executive session); various reports from staff and board members; policy on petitions for redetermination; policy on motions for reconsideration; recommendation to "Supreme Court concerning elimination of admission without examination and implementation of special licensing status for corporate counsel; legal advice on pending litigation (in executive session) scheduling issues; special requests for waivers and interpretations; policy concerning secretarial expense reimbursement; and communications from the public.

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: July 16, 1996, 12:52 p.m.

TRD-9610192

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Saturday, July 27, 1996, 1:00 p.m.

Rm. E11012, Capitol Extension Building

Austin

AGENDA SUMMARY:

The Board will consider whether to recommend amendment of the rules to eliminate admission without examination, consider responses received to Texas Bar Journal article on this topic, and consider related issue of whether to recommend a special Texas licensure certification for in-house counsel.

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: July 16, 1996, 12:53 p.m.

TRD-9610194

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Texas Department of Licensing & Regulation

Thursday, July 25, 1996, 9:00 a.m.

920 Colorado, E.O. Thompson Building, 4th Floor Conference Room

Austin

Enforcement Division, Career Counseling

AGENDA

According to the complete agenda, the Department will hold an Administrative Hearing to consider possible assessment of administrative penalties and damages awarded to the complainant against the Respondent, K.P. Allen & Associates (Dallas), for violations of the Texas Civil Statutes, Article 5221a-8 (the Act) §§5(a), 7(b), 8(a), 8(b) and 8(c), pursuant to the Act, §12 and the Texas Government Code, Chapter 2001 (APA).

Contact: Paula Hamje, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701 (512) 463-3192.

Filed: July 16, 1996, 3:23 p.m.

TRD-9610226

Texas Natural Resource Conservation Commission

Wednesday, July 24, 1996, 9:30 a.m. and 1:00 p.m., respectively.

Building E, Room 201S, 12118 N. Interstate 35

Austin

EMERGENCY REVISED AGENDA:

AGENDA:

The Commission will consider approving the following matters on the attached agenda: Agency Report; Hearing Request; Sludge Enforcement; Petroleum Storage Tank Enforcement; Affirm; Modify; Set Aside Emergency Order; On-Site Sewage Inspection Enforcement; Public Water Supply Enforcement; Agricultural Enforcement; Authorization to Construct; Motion for Rehearing; Rules; State Implementation Plan; Motion for Reconsideration; Resolution; Contract; Executive Session; the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continue to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (REGISTRATION FOR 9:30– AGENDA STARTS 8:45 UNTIL 9:25).

1:00 P.M. AGENDA: The Commission will consider approving the following matters on the attached agenda. Administrative Law Judge's Proposal for Decision. Motion for Rehearing (REGISTRATION FOR 1:00 P.M. AGENDA STARTS AT 12:30 P.M.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239–3317.

Filed: July 16, 1996, 1:28 p.m.

TRD-9610211

Wednesday, July 24, 1996, 1:00 p.m.

Building E, room 201S, 12118 N. Interstate 35

Austin

EMERGENCY REVISED AGENDA:

AGENDA:

1:00 P.M. AGENDA: The Commission will consider approving the following matters on the attached agenda: Commission's Ethics Policy. (REGISTRATION FOR 1:00 P.M. AGENDA STARTS AT 12:30 P.M.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239–3317.

Filed: July 16, 1996, 3:32 p.m.

TRD-9610229

Friday, July 26, 1996, 2:00 p.m.

6300 Ocean Drive, Room 1003, Texas A & M, Natural Resource Center Building

Corpus Christi

EMERGENCY REVISED AGENDA:

The Commission will consider adoption of a Memorandum of Agreement creating a Flexible Attainment Region for the Corpus Christi area.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239–3317.

Filed: July 16, 1996, 3:33 p.m.

TRD-9610230

Board of Nurse Examiners

Friday, July 26, 1996, 8:30 a.m.

333 Guadalupe, Tower 3, Suite 460

Austin

AGENDA:

The Board of Nurse Examiners will meet at 8:30 a.m. on Friday, July 26, 1996 to hold a work session to continue their work on Governance Policies. The worksession will be conducted at 333 Guadalupe, Tower 3, Suite 460; Austin. the session will adjourn by Noon.

Contact: Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 305–6811.

Filed: July 17, 1996, 9:49 a.m.

TRD-9610270



Executive Council of Physical Therapy and Occupational Therapy Examiners

Friday, July 26, 1996, 9:30 a.m.

333 Guadalupe, Suite 2–510

Austin

AGENDA:

I. Call to order

II. Approval of minutes of April 29, 1996 Executive Council Meeting

III. Public comment

IV. Review and action on rules proposed by the Texas Board of Physical Therapy Examiners as follows: §323.4, Applications Review Committee

V. Review and action on rules proposed by the Texas Board of Occupational Therapy Examiners as follows: §362.1, Definitions; §365.1, types of licenses; §373.1, supervision.

VI. Review and possible adoption of posted changes to the Occupational Therapy Board's Administrative Fees-§651.1.

VII. Review and possible adoption of posted changes to the Physical Therapy Board's Administrative Fees, Examination Fees, and Fee for Application to retake the exam-§651.2.

VIII. Review and possible adoption of new §651.3, administrative services fees.

IX. Executive Director's Report

X. Discussion and possible action on changes to executive council policies regarding charges for publications, lists and diskettes.

XI. Review and possible action regarding the Legislative appropriations request, 1998–1999.

XII. Presentation on facility registration.

XIII. Presiding officer's report.

XIV. Discussion and possible action on a joint meeting between the OT and PT Boards

XV. Next meeting date.

XVI. Executive session pursuant to §551.071 of the Government Code, consultation with attorney regarding pending or contemplated litigation.

XVII. Adjournment.

Contact: Nina Hunter, 333 Guadalupe, Suite 2-510, Austin, Texas 78701, (512) 305-6900.

Filed: July 17, 1996, 9:19 a.m.

TRD-9610261



Public Utility Commission of Texas

Friday, August 2, 1996, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A hearing on the merits will be held by the State Office of Administrative Hearings in Docket Number 16180-application of Cypress Telecommunications Corporation for a Service Provider Certificate of Operating Authority. This application was filed on July 16, 1996. Applicant intends to become an alternate local exchange carrier (ALEC) under a SPCOA. Applicants will resell the existing local exchange companies' flat rate local service at a 5.0% to 25% discount depending upon volume. Cytel plans to provide local exchange services throughout the State of Texas. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by July 26, 1996.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 17, 1996, 9:36 a.m.

TRD-9610269



Texas Council on Purchasing from People with Disabilities

Thursday, July 25, 1996, 8:30 a.m.

1711 San Jacinto Blvd., Central Services Bldg., Room 402, General Services Commission

Austin

Performance Subcommittee Work Session

AGENDA:

Work Session for Developing Council Rules and Strategic Plan

Contact: Rose-Michel Munguia, Legal Counsel, 1711 San Jacinto, Austin, Texas 78701, (512) 463-6422

Filed: July 16, 1996, 10:04 a.m.

TRD-9610177



Texas Southern University

Thursday, August 1, 1996, 1:00 p.m.

3100 Cleburne/Hannah Hall, Room 111

Houston

Finance/Buildings/Grounds Committee

AGENDA:

Meeting to consider: Matters relating to financial reporting systems, and budgets; fiscal reports from the administration; investments, contract awards; and information items; Executive Session.

Contact: Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: July 16, 1996, 9:17 a.m.

TRD-9610159



Texas State Technical College System

Friday, July 26, 1996, 9:00 a.m.

TSTC East Texas Center at Marshall, 2400 East End Boulevard, South, Room 153

Marshall

Board of Regents Search Committee

AGENDA:

The Board of Regents will discuss and act on the following minute orders:

Recommendations, if any, to the full Board of Regents regarding Search Committee Meeting.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: July 17, 1996, 9:11 a.m.

TRD-9610255



Friday, July 26, 1996, 9:05 a.m.

TSTC East Texas Center at Marshall, 2400 East End Boulevard, South, Room 153

Marshall

Board of Regents Closed Meeting

AGENDA:

Following Item III of the agenda and shown as Item IV the Board of Regents will recess from open meeting into Closed Meeting in accordance with Chapter 551 of the Texas Government Code for the specific purpose provided in §551.074 and §551.075 and will discuss the following:

Discuss Chancellor search process and review applications for the position

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: July 17, 1996, 9:11 a.m.

TRD-9610256



Texas Board of Veterinary Medical Examiners

Wednesday, July 17, 1996, 11:00 a.m.

333 Guadalupe, Tower 2, #330

Austin

Executive Disciplinary Committee

Emergency

AGENDA:

In accordance with Section 14C, of the Veterinary Licensing Act, Article 8890, the Executive Committee is meeting to review information to determine if conditions warrant the temporary suspension of a licensee from practicing veterinary medicine in the State of Texas.

The Committee may hold an executive session to deliberate relative to licensee disciplinary actions as authorized in §15(b) of the Veterinary Licensing Act, Article 8890.

The allegations represent an imminent threat to public health and safety; therefore, this meeting will be held by means of a telephone conference as authorized in §551.125 of the Texas Government Code. The public may attend the meeting in Tower #2, Suite 330 of the William P. Hobby Building, 333 Guadalupe, Austin, Texas 78701.

Reason for Emergency: The Board investigation has revealed that the conduct and medical practices of a licensee may constitute imminent harm and danger to clients' animals and poses an imminent threat to public health and safety.

Persons requiring reasonable accommodations are requested to contact Judy Smith, 333 Guadalupe, #2-330, Austin, Texas 78701-3998, (512) 305-7555 or TDD 1-800-735-2989 to make appropriate arrangements.

Contact: Judy Smith, 333 Guadalupe, #2-330, Austin, Texas 78701-3998, (512) 305-7555.

Filed: July 17, 1996, 7:33 a.m.

TRD-9610249



Texas Workforce Commission

Tuesday, July 23, 1996, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

AGENDA:

Prior Meeting Notes; Staff reports; Consideration and possible proposal for adoption of amendments to Child Labor rules § 817.4-6; Discussion, consideration and possible action with regard to submitted applications for certification of various local workforce development boards; Consideration and action on whether to assume continuing jurisdiction on unemployment compensation cases; Consideration and action on higher level appeals in unemployment compensation cases listed on Texas Workforce Commission Docket 30; and Set date and discuss agenda for next meeting.

Contact: Esther Hajda, Texas Workforce Commission, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: July 15, 1996, 4:14 p.m.

TRD-9610154



Regional Meetings

Meetings Filed July 15, 1996

Austin Transportation Study US 290/Loop 1, Task Force and Technical Advisory Committee, met at , 2499A. South Loop 360, Suite 100, Austin, July 18, 1996, at 9:00 a.m. Information may be obtained from Michael R. Aulick, 301 West 2nd Street, Austin, Texas 78701, (512) 499-2275. TRD-9610123.

Bastrop Central Appraisal District, Board of Directors, met at 1200 Cedar Street, Bastrop, July 18, 1996, at 6:30 p.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 303-3536. TRD-9610152.

Deep East Texas Council of Governments, Deep East Texas Rural Rail Transportation District, will meet at Twitty's, Highway 87, Hemphill, July 25, 1996 at 10:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas, (409) 384-5704. TRD-9610158.

Education Service Center, Region VII, Board of Directors, will meet at 440 Highway 79 South, Henderson, July 25, 1996, at Noon. Information may be obtained from Eddie J. Little, 818 East Main Street, Kilgore, Texas 75662, (903) 984-3071. TRD-9610144.

Edwards Aquifer Authority, Ad-hoc Critical Period Management Committee, met at 1615 N. St. Mary's Street, San Antonio, July 19, 1996, at 4:00 p.m. Information may be obtained from Sally Tarnez-Salas, 1615 N. St. Mary's Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9610151.

Liberty County Central Appraisal District, Board of Directors, will meet at 315 Main Street, Liberty, July 24, 1996, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-57522. TRD-9610146.

Liberty County Central Appraisal District, Agriculture Advisory Board, will meet at 315 Main Street, Liberty, July 25, 1996, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-57522. TRD-9610145.

Manville Water Supply Corporation, Board, met at 2132 N. Mays Street, Round Rock, July 18, 1996, at 7:00 p.m. Information may be obtained from Tony Graf, 2132 N. Mays Street, Round Rock, Texas 78664, (512) 272-4044. TRD-9610137.

Northeast Texas Municipal Water District, Board of Directors, met on Highway 250 South, Hughes Springs, July 22, 1996, at 10:00 a.m. Information may be obtained from J.W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9610130.

Southwest Milam Water Supply Corporation, Board, met at 114 E. Cameron, Rockdale, July 22, 1996, 7:00 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9610157.

Wichita Falls MPO, Policy Advisory Committee, will meet at the City Council Conference Room, Memorial Auditorium, 1300 7th Street, Wichita Falls, July 24, 1996, at 8:30 a.m. Information may be obtained from Richard E. Luedke, 1300 7th Street, Wichita Falls, Texas 76301, (817) 761-7447. TRD-9610138.

Meetings Filed July 16, 1996

Brazos River Authority, Special Called Board, met at 4400 Cobbs Drive, Waco, July 22, 1996, at 8:00 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9610162.

Brazos River Authority, Administration and Audit and Water Utilization, met at 4400 Cobbs Drive, Waco, July 22, 1996, at 1:00 p.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9610163.

Burnet County Appraisal District, Appraisal Review Board, will meet at 223 South Pierce, Burnet, July 30, 1996, at 9:00 a.m. Information may be obtained from Barbara Ratliff, P.O. Drawer E, Burnet Texas 78611, (512) 756-8291. TRD-9610176

East Texas Council of Governments, CEO Board of Directors, met at 3800 Stone Road, Kilgore, July 22, 1996, at 6:00 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9610185.

Hays County Appraisal District, Appraisal Review Board, met at 21001 North IH35, Kyle, July 19, 1996, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 21001 North IH35, Kyle, Texas, 78640, (512) 268-2522. TRD-9610191.

Limestone County Appraisal District, Appraisal Review Board, met at 200 State Street, LCAD Office, Ground Floor, County Courthouse, Groesbeck, July 19, 1996, at 1:00 p.m. Information may be obtained from Karen Wietzikoski, 200 State Street, LCAD Office, County Courthouse, Groesbeck, Texas 76642, (817) 729-3009. TRD-9610190.

North Central Texas Council of Governments, Executive Board, will meet at Centerpoint Two, 616 Six Flags Drive, 2nd Floor, Arlington, July 25, 1996 at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9610224

Texas Council Risk Management Fund, Budget and Finance Committee, will meet at the San Luis Resort and Conference Center, Spinaker Room, 1st Floor Conference Center, 5222 Seawall Boulevard, Galveston, on August 24, 1996, at 3:00 p.m. Information may be obtained from Spencer McClure, Executive Director, Westpark Building 3, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 346-6921. TRD-9610161.

Meetings Filed July 17, 1996

Coryell City Water Supply, Board of Directors met at FM 929, Coryell, July 18, 1996, at 7:30 p.m. Information may be obtained from Helen Swift, Route 2, Box 93, Gatesville, Texas 76528, (817) 865-6089. TRD-9610257

Dallas Housing Authority, Dallas Housing Authority Board of Commissioners met at the Dale V. Kealer Board Room of the Authority, 3939 North Hampton Road, July 17, 1996, at 1:00 p.m. Information may be obtained from Mattye Jones, 3939 North Hampton Road, Dallas, Texas 75212, (214) 951-8305. TRD-9610260.

Edwards Aquifer Authority, Public Hearing will meet at 1615 North St. Marys, San Antonio, July 23, 1996, at 6:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9610284.

Edwards Aquifer Authority, Public Hearing will meet at 1615 North St. Marys, San Antonio, July 23, 1996, at 6:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9610280.

Edwards Aquifer Authority, Public Hearing will meet at the New Braunfels Civic Center, 380 South Seguin, New Braunfels, July 24, 1996, at 6:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9610281.

Edwards Aquifer Authority, Public Hearing will meet at the New Braunfels Civic Center, 380 South Seguin, New Braunfels, July 24, 1996, at 6:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9610285.

Edwards Aquifer Authority, Public Hearing will meet at the Uvalde Civil Center, 300 East Main Street, Uvalde, July 25, 1996, at 6:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9610286.

Edwards Aquifer Authority, Public Hearing will meet at the Uvalde Civil Center, 300 East Main Street, Uvalde, July 25, 1996, at 6:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9610282.

Gulf Bend Center, Board of Trustees, will meet at 1502 East Airline, Victoria, July 23, 1996, at Noon. Information may be obtained from Agnes Moeller, Gulf Bend Center, 1502 East Airline, Victoria, Texas 77901, (512) 575-0611. TRD-9610248.

Hamilton County Appraisal District, Board will meet at 119 East Henry, Hamilton, July 23, 1996, at 7:00 a.m. Information may be obtained from Doyle Roberts, 119 East Henry, Hamilton, Texas 76531, (817) 386-8945. TRD-9610253.

Jones County, Appraisal District, Appraisal Review Board will meet at 1137 East Court Plaza, Anson, July 23, 1996, at 8:00 a.m. Information may be obtained from Susan Holloway, P.O. Box 348, Anson, Texas 79501, (915) 823-2422. TRD-9610283.

Lower Rio Grande Valley Development Council, Hidalgo County Metropolitan Planning Organization, will meet at the TxDOT District Office, 600 West Expressway US 83, July 25, 1996, at 7:00 p.m. Information may be obtained from Edward L. Molitor, 311 North 15th Street, McAllen, Texas 78501, (210) 682-3481. TRD-9610279.

North Central Council of Governments, North Central Texas Workforce Development Board, will meet at 616 Six Flags Drive, Third Floor, Arlington, July 24, 1996 at 10:00 a.m. Information may be obtained from Casandra J. Vines, North Central Texas Council of Governments, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 695-9176. TRD-9610252.

West Central Texas Council of Governments, Executive Committee Meeting will meet at 1025 East North Tenth Street, Abilene, July 24, 1996, at 12:45 p.m. Information may be obtained from Brad Helbert, 1025 EN 10th Street, Abilene, Texas 79601, (915) 672-8544. TRD-9610277

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Office of the Consumer Credit Commissioner

Notice of Rate Ceiling

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Title 79, Texas Civil Statutes, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04).

<u>Effective Rate Ceilings</u>	<u>Effective Period</u> (Dates are Inclusive)	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial (2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	07/22/96-07/28/96	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	08/01/96-08/31/96	10.00%	10.00%

(1) Credit for personal, family or household use. (2) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on July 17, 1996.

TRD-9610262

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: July 17, 1996

Texas State Board of Examiners of Professional Counselors

Notice of Public Hearing

The Texas State Board of Examiners of Professional Counselors will hold a public hearing on proposed amendments to 22 TAC Chapter 681 concerning the regulation of professional counselors published in the June 18, 1996, issue, 21 TexReg 5520. The public hearing is scheduled for 1:30 p.m., Wednesday, July 31, 1996, at the Texas Department of Health, 1100 West 49th Street, Austin, Texas, in the Board of Health meeting room M739. For more information please contact Kathy Craft, Texas Department of Health, Professional Licensing and Certification, (512) 834-6658.

Issued in Austin, Texas, on July 16, 1996.

TRD-9610238

Susan K. Steeg

General Counsel
Texas State Board of Examiners of Professional Counselors
Filed: July 16, 1996

General Land Office

Notice of Extension of Comment Period

The General Land Office, with the approval of the School Land Board, is extending the comment period on proposed amendments to 31 TAC §16.4, relating to Thresholds for Referral. The proposed amendments were published in the June 14, 1996, issue of the *Texas Register* (21 TexReg 5429). The new deadline for submission of comments is 5:00 p.m. August 23, 1996.

Issued in Austin, Texas, on July 17, 1996.

TRD-9610247
Garry Mauro
Commissioner
General Land Office
Filed: July 16, 1996

Request for Qualifications (Texas Airports Alternative Fuel Use Project)

Project Description:

The Texas General Land Office (GLO) is providing support and assistance through the U.S. Department of Energy Clean Cities program to cities throughout Texas to increase the use of alternative fuels. A part of this effort is to increase the use of alternative fuels at airports.

The GLO is currently seeking qualified engineers, engineering firms, or teams of engineers and other professionals to develop a strategic plan designed to encourage and increase the use of alternative fuels at Texas airports. The major focus of this effort will address the use potential at the new Austin-Bergstrom International Airport, with the opportunity for other Texas airports to obtain services through this project.

The GLO requires the assistance of engineers, engineering firms, or teams of engineers and other professionals that are experienced with the use of alternative fuels at airports. Both technical and planning expertise in the development and implementation of alternative fuel use plans for airports are required.

Information is sought regarding qualifications, experience in this area, what assistance is available to help in this task, and how responders could help with this project. Please be as specific as possible.

The requested information should be submitted to Jim Butler, Texas General Land Office, 1700 North Congress Avenue, Room 1136A, Austin, Texas, 78711-1495, no later than 5:00 p.m. on July 30, 1996.

For an information packet or further information, call Jim Butler in Austin at (512) 463-7682.

Issued in Austin, Texas, on July 17, 1996.

TRD-9610246
Garry Mauro
Commissioner

General Land Office
Filed: July 16, 1996

Texas Department of Insurance

Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application for a name change in Texas for The Unity Fire and General Insurance Company, a foreign fire and casualty company. The proposed new name is General Security Property and Casualty Company. The home office is in New York, New York.

Application for a name change in Texas for Western Atlantic Reinsurance Corporation, a foreign fire and casualty company. The proposed new name is European Reinsurance Corporation of America. The home office is in Manchester, New Hampshire.

Application for a name change in Texas for Home Guaranty Insurance Corporation, a foreign fire and casualty company. The proposed new name is Lawrenceville Property and Casualty Co., Inc. The home office is in Fairfax, Virginia.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on July 16, 1996.

9610268
Caroline Scott
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: July 17, 1996

Notice of Public Hearing

The Commissioner of Insurance will hold a public hearing under Docket Number 2240 on August 26, 1996, at 10:00 a.m., in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider a petition by the staff of the Texas Department of Insurance proposing the adoption of amendments to the revised Texas Residential Property Statistical Plan ("the revised Plan").

The petition requests consideration of five amendments to the revised Plan: (1) An amendment to note the designation of the Texas Insurance Checking Office (TICO) as the new statistical agent for residential property insurance in Texas and to indicate that transmittal forms which accompany data submissions must be submitted to TICO; (2) an amendment which deletes reporting requirements and instructions for the Foundation Exclusion endorsement and adds reporting requirements and instructions for the Tear Out endorsement; (3) an amendment which adds reporting requirements and instructions for the use of Property Protection Plan policy forms and endorsements; (4) an amendment which adds reporting requirements and instructions for the use of new large deductibles and; (5) an amendment to drop the term "revised" from the title of the revised Texas Residential Property Statistical Plan.

The Texas Insurance Checking Office was designated as the new Texas residential property statistical agent effective April 10, 1996 pursuant to Commissioner's Order Number 96-0396. The proposed change to the revised Plan is necessary to reflect this fact and ensure that companies file data transmittal forms with the correct entity.

The Foundation Exclusion endorsement was never implemented and will not be used. There is no longer a need for reporting requirements and instructions in the revised Plan for this endorsement.

Commissioner's Order Number 95-1261 dated December 1, 1995 approved a series of endorsements as listed in the petition which restrict residential property coverage for the cost of tearing out and replacing any part of a building and land necessary to access, repair or replace that part of a plumbing drain system located within or under the slab or foundation of coverage. The proposed changes to the revised Plan are necessary to capture premium, exposure and loss experience associated with the use of these endorsements to monitor the use of these endorsements in the market place and to develop the information necessary to evaluate the pricing of these endorsements. Companies licensed and writing residential property insurance in Texas shall report these new data elements, effective with October 1, 1996 experience.

The Commissioner was granted the authority to designate areas as underserved for residential property insurance by the 74th Legislature through Article 5.35-3 of the Texas Insurance Code. Commissioner's Order Number 95-1285 dated December 8, 1995 approved the Property Protection Plan which allows the addition or restriction of coverage through a variety of endorsements noted in the petition with the intent of improving the availability of residential property insurance in certain areas of Texas designated as underserved. The proposed changes to the revised Plan are necessary to capture premium, exposure and experience of policies and endorsements issued under the Property Protection Plan to monitor the use of these policies and endorsements in the market place, to develop the information necessary for the pricing of these policies and endorsements and to verify the amount of premium written for policies and endorsements issued under the Property Protection Plan for purposes of premium tax credits. Companies licensed and writing residential property insurance in Texas shall report these new data elements, effective with October 1, 1996 experience.

Commissioner's Order Number 95-1084 dated October 17, 1995 approved new deductible levels for residential property policies. The proposed changes to the revised Plan are necessary to capture premium, exposure and loss experience associated with the use of the new large deductible amounts to monitor the use of the new deductible amounts in the market place and to develop the information necessary for the pricing of these deductibles. Companies licensed and writing residential property insurance in Texas shall report these new data elements, effective with October 1, 1996 experience.

Staff believes the continued use of the word "revised" in the title of the revised Plan is unnecessarily confusing. The term "revised" was originally used to refer to the revised Texas Residential Property Statistical Plan adopted by the Commissioner of Insurance on December 1, 1994 under Commissioner's Order Number 94-1291. Continued use of the title "revised Texas Residential Property Statistical Plan" as additional revisions are made is unnecessary and may create confusion in future references. This change becomes effective October 1, 1996.

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 5.96, 5.97, 5.25, 5.28, 5.98 and 21.69. Articles 5.96 and 5.97 authorize the filing of this petition. Articles 5.25, 5.28, 5.98 and 21.69 authorize the action requested of the Commissioner.

Article 5.25 authorizes the Commissioner to designate an agent to gather, audit, and compile experience of insurers writing fire and allied lines. Article 5.28 authorizes the Commissioner to gather data the Commissioner deems appropriate in determining reasonable and appropriate rates for fire and allied lines. Article 5.98 authorizes the Commissioner to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5 of the Insurance Code. Article 21.69 authorizes the Commissioner to contract with or designate an entity to compile and maintain historical premium and loss data pursuant to statistical plans adopted by the Commissioner.

Copies of the full text of the staff petition and the proposed amendments are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas, 78714-9104. For further information or to request copies of the petition and proposed amendments, please contact Angie Arizpe at (512) 463-6326 (refer to Reference Number P-0796-30-I).

Comments on the proposed changes must be submitted in writing within 30 days after publication of the proposal in the Texas Register to the Office of the Chief Clerk, P. O. Box 149104, MC113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Birny Birnbaum, Associate Commissioner for Policy and Research, P. O. Box 149104, MC113-1C, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001).

Issued in Austin, Texas, on July 17, 1996.

9610266

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: July 17, 1996

Texas Commission on Judicial Efficiency

Hearing Announcement

The Texas Supreme Court, by order of Chief Justice Thomas R. Phillips, established the Texas Commission on Judicial Efficiency to "compile and submit to the 75th Legislature, findings and recommendations regarding information technology, funding parity, and staff diversity within the court system and judicial selection."

The Funding Parity Task Force is chaired by Justice Jack Hightower who retired from the Supreme Court on January 1, 1996. The Funding Parity Task Force will report on appropriate levels of funding to staff and equip the courts, methods to ensure the distribution of state and local funds based on the needs and responsibilities of each court, and appropriate sources of funding for each type of court.

A hearing is scheduled to occur on Thursday, August 8, 1996 from 10:00 a.m. to 12:00 p.m., in Room E1.016 of the Capitol Extension.

The Information Technology, Staff Diversity, and Funding Parity Task Forces will release their reports at a press conference on August 19th and 20th on the Senate Floor of the State Capitol. The meeting is scheduled to last from 9:00 a.m. to 5:00 p.m. each day.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610059

Anthony Haley

General Counsel

Texas Commission on Judicial Efficiency

Filed: July 12, 1996



Texas Natural Resource Conservation Commission

Notice of Opportunity to Comment on Permitting Actions for the week ending July 12, 1996

The following applications will be signed by the Executive Director in accordance with 30 TAC §263.2, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain uncontested permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within 10 days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state (1) your name, mailing address and daytime phone number; (2) the permit number or other recognizable reference to this application; (3) the statement I/we request a public hearing; (4) a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; (5) a description of the location of your property relative to the applicant's operations; and (6) your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Commissioners who will determine whether or not to send the matter to the State Office of Administrative Hearings. If no protests or requests for hearing are filed, the Executive Director will sign the permit ten days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to the Chief Clerk's Office (Mailcode 105), Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Consideration of the application of the City of Brownwood, CCN Number 10436, to Transfer and Cancel CCN Number 10919 of Earl Horne doing business as P & J Water Company in Brown County, Texas. (Application # 30678-S, Darrell Nichols)

Consideration of the application of the City of Brownwood to Amend Water CCN Number 10436 in Brown County, Texas. (Application # 30445-C, Darrell Nichols)

Consideration of the application of the City of Brownwood to Amend Sewer CCN Number 20157 in Brown County, Texas. (30446-C, Darrell Nichols)

Consideration of the application of Huntington Utility Company, L.L.C. to Transfer Water CCN Number 11971 from Independence Investment, Inc. in Hays County, Texas. (Application # 31052-S, Vera Poe)

Consideration of the application of R. H. Brown to amend Water Certificate of Convenience and Necessity Number 12563 in El Paso County, Texas. (Application # 31161-C, Albert Holck)

CITY OF DENTON for a minor amendment to Permit Number 10027-03 in order to revise the permit following completion of a toxicity reduction evaluation. The proposed amendment would add diazinon to the effluent limitations to be regulated, add the diazinon abatement program and revise the biomonitoring requirements. The current permit authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 15,000,000 gallons per day, which will remain the same. The wastewater treatment facilities are east of the City of Denton along Pecan Creek, approximately 5,700 feet east of State Highway 288 and approximately 2 miles upstream from Lake Lewisville in Denton County, Texas.

APPLICATION BY THE CITY OF PINELAND TO REGULATE ON-SITE SEWAGE FACILITIES WITHIN THEIR JURISDICTION.

Consideration of the application of the City of Austin to Acquire Facilities and To Decertify Portions of Water CCN Number 11471 and Sewer CCN Number 20542 Issued To Windermere Utility Company, Inc. in Travis County, Texas. (Application # 30773-C and Number 30774-C, Guillermo Zevallos)

Consideration of the application of Christine Wang to Transfer Water CCN Number 12074 from First Heights Bank, FSB, acting for Heights Savings Association doing business as Beechwood Subdivision in Brazoria County, Texas. (Application # 31141-S, Albert Holck)

Consideration of the application of Christine Wang to Transfer Sewer CCN Number 20555 from First Heights Bank, FSB, acting for Heights Savings Association doing business as Beechwood Subdivision in Brazoria County, Texas. (Application # 31142-S, Albert Holck)

Consideration of the application of Connie McAuliffe doing business as Hancock Oak Hills Subdivision to Transfer Water CCN Number 10935 from Hal Hodges doing business as Hancock Oak Hills Subdivision; in Comal County, Texas. (Application # 31230-T, Vera Poe)

Consideration of the application of City of Celina to amend Water Certificate of Convenience and Necessity Number 12667 in Collin County, Texas. (Application # 30930-C, Darrell Nichols)

Consideration of the application of City of Celina to amend Sewer Certificate of Convenience and Necessity Number 20764 in Collin County, Texas. (Application # 30931-C, Darrell Nichols)

APPLICATION Number 23-3997AC BY THE CITY OF LAREDO, FOR AN AMENDMENT TO CERTIFICATE OF ADJUDICATION Number 23-3997, AS AMENDED, PURSUANT TO TWC §11.122. Applicant seeks authorization to sever a 50.00 acre-foot portion of

Class A irrigation water authorized under Certificate Number 23-2721, as amended, and combine it with rights owned under Certificate Number 23-3997, as amended, and to amend Certificate Number 23-3997, as amended, by changing the use from irrigation to municipal use. The conversion will equate to 25.00 acre-feet of municipal water and will authorize the City to divert and use a total of 39,890.6826 acre-feet of water per annum for municipal use. The City is also requesting that the place of use be changed to the City's service area. (Mike Howard)

Consideration of the application of Sheffield Land, Inc. doing business as Country West Sewer System for a Sewer Certificate of Convenience and Necessity in Montgomery County, Texas. Application # 30415-C, Darrell Nichols)

Consideration of the application of E. H. Bishop doing business as Ioni Water Supply for a Water CCN in Anderson County, Texas. (Application # 31163-C, Vera Poe).

Issued in Austin, Texas, on July 12, 1996.

TRD-9610168

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: July 16, 1996



Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions July 16, 1996

The Texas Natural Resource Conservation Commission (TNRCC) Staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) pursuant to the Health and Safety Code, the Texas Clean Air Act (the Act), Chapter 382, §382.096. The Act, §382.096 requires that the TNRCC may not approve these AOs unless the public has been provided an opportunity to submit written comments. Section 382.096 requires that notice of the proposed orders and of the opportunity to comment must be published in the Texas Register no later than the 30th day before the date on which the public comment period closes, which in this case is August 22, 1996. Section 382.096 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withhold approval of an AO if a comment indicates the proposed AO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Additional notice is not required if changes to an AO are made in response to written comments.

A copy of each of the proposed AOs is available for public inspection at both the TNRCC's Central Office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable Regional Office listed as follows. Written comments about these AOs should be sent to the Staff Attorney designated for each AO at the TNRCC's Central Office at P.O. Box 13087 Austin, Texas 78711-3087 and must be received by 5:00 p.m. on August 22, 1996. Written comments may also be sent by facsimile machine to the Staff Attorney at (512) 239-3434. The TNRCC Staff Attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §382.096 provides that comments on the AOs should be submitted to the TNRCC in writing.

(1) COMPANY: Carpenter Motors; DOCKET NUMBER: 96-0611-AIR-E; ACCOUNT NUMBER: EE-0266-D; LOCATION: El Paso, El Paso County, Texas; TYPE OF FACILITY: used car dealership;

RULE VIOLATED: 30 TAC §114.1(c)(1) and (2) and the Act, §382.085(b), by offering for sale a vehicle with missing and inoperable required emission control systems or devices; PENALTY: \$350; STAFF ATTORNEY: none assigned; REGIONAL OFFICE: 7500 Viscount Boulevard, Suite 147, El Paso, Texas 79925, (915) 778-9634.

(2) COMPANY: Triple W Ranch; DOCKET NUMBER: 96-0623-AIR-E; ACCOUNT NUMBER: 93-1009-S; LOCATION: Glen Rose, Somervell County, Texas; TYPE OF FACILITY: rock crusher; RULE VIOLATED: 30 TAC §116.110(a) and the Act, §§383.082(a) and (b), 382.082(c) and (d), and 382.088 for operating without a permit or meeting the requirements of Standard Exemption 73; PENALTY: \$525; STAFF ATTORNEY: none; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(3) COMPANY: Galveston Shipbuilding Company; DOCKET NUMBER: 96-0615-AIR-E; ACCOUNT NUMBER: GB-0047-Q; LOCATION: Galveston, Galveston County, Texas; TYPE OF FACILITY: marine barge repair plant; RULE VIOLATED: 30 TAC §116.110(a) and the Act, §382.518(a) and §382.085(b) by operating a surface coating and abrasive blasting operation without first obtaining a permit or satisfying the conditions of a standard exemption; PENALTY: \$3,950; STAFF ATTORNEY: none assigned; REGIONAL OFFICE: 4150 Westheimer, Houston, Texas 77027-4417, (713) 625-7900.

(4) COMPANY: Economy #1 Paint & Body Shop; DOCKET NUMBER: 96-0617-AIR-E; ACCOUNT NUMBER: HG-8955-F; LOCATION: Webster, Harris County, Texas; TYPE OF FACILITY: vehicle repair and refinishing shop; RULE VIOLATED: Standard Exemption 124(e), 30 TAC §116.115(a) and the Act, §382.085(b) by not equipping the spray area with a fan that achieves either a flow capacity of at least 10,000 cfm or has a face velocity of at least 100 fpm; PENALTY: \$0; STAFF ATTORNEY: none assigned; REGIONAL OFFICE: 4150 Westheimer, Houston, Texas 77027-4417, (713) 625-7900.

(5) COMPANY: Space Maker Designs, Inc.; DOCKET NUMBER: 96-0798-AIR-E; ACCOUNT NUMBER: DB-3961-H; LOCATION: 10490 Brockwood, Dallas, Dallas County; TYPE OF FACILITY: metal rack and shelving manufacturing plant; RULE VIOLATED: 30 TAC §115.426(a)(1)(A) and the Act, §382.085(b), by failing to maintain Material Safety Data Sheets that document the Volatile Organic Compound (VOC) content, composition, solid content, solvent content, and other relevant information regarding each coating and solvent available for use sufficient to document continuous compliance with applicable emission limits for an existing paint booth, 30 TAC §115.421(a)(9)(A)(ii) and the Act, §382.085(b), by failing to meet the VOC emissions limit of 6.7 lbs. of VOC per gallon of solids delivered to the application system of the existing paint booth; PENALTY: \$0; STAFF ATTORNEY: none assigned; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(6) COMPANY: Ernie's Automotive Center; DOCKET NUMBER: 96-0613-AIR-E; ACCOUNT NUMBER: JH-0248-P; LOCATION: 1000 Highway 67 East, Alvarado, Johnson County; TYPE OF FACILITY: automotive paint and body shop; RULE VIOLATED: 30 TAC §116.110(a) and the Act, §382.051(a) and §382.085(b), by failing to obtain a permit or satisfy the conditions of a standard exemption prior to constructing paint spray booths that may emit contaminants onto the air of the state; PENALTY: \$350; STAFF

ATTORNEY: none assigned; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(7) COMPANY: Pioneer Aggregates; DOCKET NUMBER: 96-0599-AIR-E; ACCOUNT NUMBER: WN-0019-Q; LOCATION: Bridgeport, Wise County; TYPE OF FACILITY: rock crusher plant; RULE VIOLATED: 30 TAC §116.115, the Act, §382.085(b), and 40 Code of Federal Regulations 60.672(b), by exceeding the 10% opacity limit for fugitive emissions off of a transfer point and failing to install and operate water spray equipment at all material transfer points in order to achieve maximum control of dust emissions, as demonstrated by an average opacity of 22%; PENALTY: \$5,000; STAFF ATTORNEY: none assigned; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(8) COMPANY: Kelly the Topper Guy; DOCKET NUMBER: 96-0793-AIR-E; ACCOUNT NUMBER: DB-3895-S; LOCATION: Duncanville, Dallas County; TYPE OF FACILITY: automotive paint and body shop; RULE VIOLATED: 30 TAC §115.442 and the Act, §382.085(b), by failing to operate an approved enclosed or non-enclosed washer, failing to keep solvent containers closed, and failing to use High Velocity Low Pressure (HVP) guns; 30 TAC §115.426(a) and the Act, §382.085(b), by failing to maintain Material Safety Data Sheets (MSDS); and 30 TAC §116.110 and the Act, §382.085(a) and (b), by owning and operating an automotive paint and body plant, which may emit air contaminants into the air of the state, without first obtaining a permit or qualifying for a standard exemption; PENALTY: \$0; STAFF ATTORNEY: none assigned; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(9) COMPANY: Galbreath, Inc.; DOCKET NUMBER: 96-0614-AIR-E; ACCOUNT NUMBER: TA-0447-T; LOCATION: 102 Sentry Drive North, Mansfield, Tarrant County; TYPE OF FACILITY: solid waste handling equipment manufacturing plant; RULE VIOLATED: 30 TAC §116.110(a) and the Act, §382.0518(a) and §382.085(b), by failing to obtain a permit or satisfy the conditions of a standard exemption prior to constructing a new facility with two paint spray booths; PENALTY: \$1, 200; STAFF ATTORNEY: none assigned; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(10) COMPANY: Jess Auto Sales; DOCKET NUMBER: 96-1097-AIR-E; ACCOUNT NUMBER: DB-4236-L; LOCATION: Garland, Dallas County; TYPE OF FACILITY: used car dealership; RULE VIOLATED: 30 TAC §114.11(c)(1) and the Act, §382.085(b), by offering for sale a vehicle with missing required emission control systems or devices; PENALTY: \$0; STAFF ATTORNEY: none assigned; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(11) COMPANY: Rodeo Auto Center; DOCKET NUMBER: 96-0278-AIR-E; ACCOUNT NUMBER: EE-1788-H; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: used car dealership; RULE VIOLATED: 30 TAC §114.1(c)(1) and the Act, §382.085(b), by offering for sale a vehicle with missing required emission control systems or devices; PENALTY: \$0; STAFF ATTORNEY: none assigned; REGIONAL OFFICE: 7500 Viscount Boulevard, Suite 147, El Paso, Texas 79925, (915) 362-6997. Issued in Austin, Texas, on July 16, 1996.

Issued in Austin, Texas, on July 16, 1996.

TRD-9610193

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: July 16, 1996



Notice of Public Hearing (Chapter 122)

Notice is hereby given that pursuant to the requirements of Texas Health and Safety Code, §382.017 and §382.051, and Texas Government Code, Subchapter B, Chapter 2001, the Texas Natural Resource Conservation Commission (TNRCC or commission) will conduct a public hearing to receive testimony concerning revisions to Chapter 122.

The commission proposes new §122.135, concerning an exemption from the requirements for submitting grandfather information. The requirements for owners or operators of a site subject to the interim federal operating permits program to identify grandfather emission units and submit grandfather emission rates required by §122.132(a)(5) are a state-only requirement, and do not implement any part of Title V or Title 40, Code of Federal Regulations, Part 70 (40 CFR 70). As a result of Senate Bill 1126 enacted by the 74th Texas Legislature and the subsequent changes made to Title 30, Texas Administrative Code, Chapter 116 (30 TAC Chapter 116), the agency has decided to address the establishment of allowable emissions for qualified grandfathered facilities solely through the provisions of 30 TAC Chapter 116. Therefore, the agency is planning to remove the requirements in §122.132(a)(5) and the grandfather definitions in §122.11 for the full program in a future rulemaking. However, this future rulemaking cannot be undertaken at this time due to an understanding with United States Environmental Protection Agency that the existing sections of 30 TAC Chapter 122 are not to be amended until after interim program approval has been published in the Federal Register. The rule regarding the exemption from submitting grandfather information is proposed for the entire State of Texas.

A public hearing on the proposal will be held August 19, 1996, at 2:00 p.m. in Room 2210 of TNRCC Building F, located at 12100 Park 35 Circle, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96137-122-AI. Comments must be received by 5:00 p.m., August 23, 1996. For further information, please contact Kevin Bloomer of the Operating Permits Division, Office of Air Quality, (512) 239-5730.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on July 10, 1996.

9610106
Kevin McCalla
Director, Legal Division
Texas Natural Resource Conservaton Commission
Filed: July 15, 1996



Provisionally-Issued Temporary

Permits to Appropriate State Water Listed below are permits issued during the period of July 12, 1996 Application Number TA-7699 by Brown & Root, Inc. for diversion of five acre-feet in a one year period for industrial use. Water may be diverted from the San Jacinto River at the I-45 crossing, approximately ten miles south of Conroe, Montgomery County, Texas, San Jacinto River Basin.

Application Number TA-7700 by T. L. James & Company, Inc. for diversion of eight acre-feet in a one year period for industrial use. Water may be diverted from near the Brushy Creek crossing of FM 844, approximately 15 miles southeast of Lufkin, Angelina County, Texas and near the Brushy Creek crossing of FM 326 located five miles southeast of Lufkin, Angelina County, Texas, Neches River Basin.

The Executive Director of the TNRCC has reviewed each application for the permits listed and determined that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. Any person or persons who own water rights or who are lawful users of water on a stream affected by the temporary permits listed above and who believe that the diversion of water under the temporary permit will impair their rights may file a complaint with the TNRCC. The complaint can be filed at any point after the application has been filed with the TNRCC and the time the permit expires. The Executive Director shall make an immediate investigation to determine whether there is a reasonable basis for such a complaint. If a preliminary investigation determines that diversion under the temporary permit will cause injury to the complainant the commission shall notify the holder that the permit shall be cancelled without notice and hearing. No further diversions may be made pending a full hearing as provided in Section 295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-4433. Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78731, (512) 239-3300.

Issued in Austin, Texas, on July 12, 1996.

TRD-9610167
Kevin McCalla
Director, Legal Division
Texas Natural Resource Conservation Commission
Filed: July 16, 1996



Public Utility Commission

Notices of Application to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on July 3, 1996, to amend

a certificate of convenience and necessity pursuant to §§1.101, 3.051(b), 3.251, 3.253, and 3.254 of the Public Utility Regulatory Act of 1995 (PURA), Texas. Revised Civil Statutes Annotated, Article 1446c-0 (Vernon Supp. 1996). A summary of the application follows.

Docket Title and Number. Application of Southwestern Bell Telephone Company to Amend Certificate of Convenience and Necessity Within Tyler County. Docket Number 16151.

The Application. In Docket Number 16151, Southwestern Bell Telephone Company seeks approval to amend the exchange area boundary between its Warren and Woodville exchanges to provide telephone service the way the exchange boundary is administered.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf on or before August 15, 1996.

Issued in Austin, Texas, on July 15, 1996.

9610131
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: July 15, 1996



Notice is given to the public of the filing with the Public Utility Commission of Texas an application on July 5, 1996, to amend a certificate of convenience and necessity pursuant to §§1.101, 3.051(b), 3.251, 3.253, and 3.254 of the Public Utility Regulatory Act of 1995 (PURA), Texas Revised Civil Statutes Annotated, Article 1446c-0 (Vernon Supp. 1996). A summary of the application follows.

Docket Title and Number. Application of GTE Southwest, Inc. to Amend Certificate of Convenience and Necessity Within Fannin County. Docket Number 16154.

The Application. In Docket Number 16154, GTE Southwest, Inc. seeks approval to amend the exchange area boundary between its Bonham exchange and Contel of Texas' Windom exchange to provide telephone service the way the exchange boundary is administered.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf on or before August 16, 1996.

Issued in Austin, Texas, on July 15, 1996.

9610132
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: July 15, 1996



Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on July 8, 1996, to amend a Certificate of Convenience and Necessity pursuant to Sections

1.101(a), 2.201, 2.101(e), 2.252, and 2.255, of the Public Utility Regulatory Act of 1995. A summary of the application follows.

Docket Title and Number: Application of the City of College Station to Amend Certificated Service Area Boundaries within Brazos County, Docket Number 16157 before the Public Utility Commission of Texas.

The Application: In Docket Number 16157, the City of College Station requests approval of its application to revise current certificated service area boundaries within Brazos County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf within 15 days of this notice.

Issued in Austin, Texas, on July 15, 1996.

9610133

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: July 15, 1996

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Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on July 1, 1996, to amend a Certificate of Convenience and Necessity pursuant to §§1.101(a), 2.201, 2.101(e), 2.252, and 2.255, of the Public Utility Regulatory Act of 1995. A summary of the application follows.

Docket Title and Number: Application of Brazos Electric Cooperative, Inc. to Amend a Certificate of Convenience and Necessity within Bell County, Docket Number 16134 before the Public Utility Commission of Texas.

The Application: In Docket Number 16134, Brazos Electric Cooperative, Inc. requests approval of its application to construct approximately 0.4 mile of 69 kV transmission line within Bell County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf within 15 days of this notice.

Issued in Austin, Texas, on July 15, 1996.

9610134

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: July 15, 1996

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Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific

PLEXAR-Custom Service for Rio Hondo Independent School District in Rio Hondo, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Rio Hondo Independent School District in Rio Hondo, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 16158.

The Application. Southwestern Bell Telephone Company is requesting approval for a new PLEXAR-Custom service for Rio Hondo Independent School District. The geographic service market for this specific service is the Rio Hondo, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on July 15, 1996.

9610142

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: July 15, 1996

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for City of Fort Worth in Fort Worth, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for City of Fort Worth in Fort Worth, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 16159.

The Application. Southwestern Bell Telephone Company is requesting approval for a 78 station addition to the existing PLEXAR-Custom service for City of Fort Worth. The geographic service market for this specific service is the Fort Worth, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on July 15, 1996.

9610143

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: July 15, 1996

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Notices of Intent to File Pursuant to Public Utility Substantive Rule 23.28

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application on or after July 18, 1996,

pursuant to Public Utility Commission Substantive Rule 23.28 for approval to offer promotional rates.

Tariff Title and Number: Application of United Telephone Company of Texas for Promotional Rate Offering Pursuant to Public Utility Commission Substantive Rule 23.28. Tariff Control Number 16160.

The Application: United Telephone Company of Texas proposes to offer promotional residence and business rates for new customers of Enhanced Call Waiting, Call Forwarding-No Answer and Call Forwarding-Busy services. The proposed promotion will allow the company to waive the first month recurring charges for the services for a promotional period of 45 days beginning September 1, 1996, and ending October 15, 1996.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas, 78757, or call the Public Utility Commission Consumer Affairs Section at (512) 458-0223, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on July 15, 1996.

9610140

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: July 15, 1996

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application on or after July 18, 1996, pursuant to Public Utility Commission Substantive Rule 23.28 for approval to offer promotional rates.

Tariff Title and Number: Application of Central Telephone Company of Texas for Promotional Rate Offering Pursuant to Public Utility Commission Substantive Rule 23.28. Tariff Control Number 16161.

The Application: Central Telephone Company of Texas proposes to offer promotional residence and business rates for new customers of Caller ID, Caller ID with Name, Call Waiting, Call Forwarding- No Answer and Call Forwarding-Busy services. The proposed promotion will allow the company to waive the first month recurring charges for all five services and the installation charge, if applicable, for Caller ID or Caller ID with Name service for a period of 45 days beginning September 1, 1996, and ending October 15, 1996.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas, 78757, or call the Public Utility Commission Consumer Affairs Section at (512) 458-0223, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on July 15, 1996.

9610141

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: July 15, 1996

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Notice of Joint Application for Approval of Extended Area Service

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on July 2, 1996, seeking approval of optional, one-way extended area service (EAS) pursuant to the Public Utility Commission of Texas Substantive Rule 23.49(b). The following is a summary of the joint petition:

Project Title and Number. Joint Petition of Southwestern Bell Telephone Company and GTE Southwest, Inc. to Provide One-Way Optional Extended Area Service (EAS) from the Edgewood Exchange to the Dallas, Terrell and Forney Exchanges of Southwestern Bell Telephone Company and the Carrollton, Garland, Irving, Lewisville, DFW Airport, Plano, Rowlett and Wylie Exchanges of GTE Southwest, Inc., Project Number 16146, before the Public Utility Commission of Texas.

The Application. In Project Number 16146, Southwestern Bell Telephone Company (SWB) and GTE Southwest, Inc. (GTE) seek approval of a joint petition to offer optional, one-way EAS on a flat-rate basis from the Edgewood exchange to the Dallas, Terrell and Forney exchanges of SWB and the Carrollton, Garland, Irving, Lewisville, DFW Airport, Plano, Rowlett and Wylie exchanges of GTE. Customers choosing to subscribe to EAS will pay monthly charges as follows:

Class of Service EAS Monthly Rate Additives

Residence per line \$15

Business per line \$30

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf on or before September 26, 1996.

Issued in Austin, Texas, on July 16, 1996.

9610223

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: July 16, 1996

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Notice of Workshop

The Caller ID Consumer Education Panel will be conducting an informal workshop on August 6, 1996 from 9:00 a.m. until 12:00 noon in the Commissioners' Hearing Room (CHR) at the offices of the Public Utility Commission of Texas. The Caller ID Panel was created by the 74th Texas Legislature to review consumer education materials about Caller ID and other telecommunications services; to investigate whether educational materials are distributed in a manner as effective as marketing materials; and to develop recommendations for the Public Utility Commission related to the safe use of Caller ID services and the privacy of a calling customer. The workshop is being conducted to review the preliminary findings of the Panel with providers of caller identification services operating in the state. All interested parties are invited to attend. The Public Utility Commission is located at 7800 Shoal Creek Boulevard, Austin, Texas. For more information please contact Ms. Jackie Follis at 458-0314.

Issued in Austin, Texas, on July 15, 1996.

9610139

Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: July 15, 1996

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Southwest Texas State University

Notice of Invitations for Proposals

The Fund Raising Counsel of Southwest Texas State University in San Marcos solicits proposals for its major gifts campaign. This consulting service is continuation of a service previously performed by The Dini Partners, Houston, Texas. Proposals should offer service for six months and 12 months work as well as hourly consulting rates. The firm must have a proven track record assisting large state universities in Texas with similar campaigns.

The contractor must provide advice and guidance on research, cultivation, solicitation and stewardship for private gifts to the university.

Assistance with the recruitment and training of volunteer leadership, goal setting, campaign accounting procedures and overall assistance are also required.

Southwest Texas will give preferential consideration to firms who have previous experience working with Southwest Texas State University. Contact: Gerald W. Hill Vice President for University Advancement Southwest Texas State University San Marcos, Texas 78666-4612

Closing Date: 30 days from posting date. Contract will be awarded by the Board of Regents, Texas State University System.

Issued in Austin, Texas, on July 15, 1996.

TRD-9610124
William A. Nance
Vice President for Finance and Support Services
Southwest Texas State University
Filed: July 15, 1996

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Texas Department of Transportation

Request for Proposals

Notice of Invitation, RFP Number 55-745P5001: Pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.40, the Texas Department of Transportation (TxDOT) intends to engage a total of four engineers, respectively to provide complete subsurface utility engineering (SUE) designating and locating (test hole) services statewide, for various transportation improvement projects. TxDOT will negotiate and enter a separate two year contract with each of the four prime provider firms selected. To qualify for contract award, each engineer selected must perform a minimum of 30% of the actual contract work.

Deadline. A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (512) 416-2909, by hand delivery to TxDOT Right of Way Division, 118 East Riverside Drive, Austin, Texas, or by mail addressed to TxDOT Right of Way Division, P. O. Box 5075, Austin, Texas 78763-5075. Letters

of interest will be received until 5:00 p.m. on Friday, August 2, 1996. The letter of interest must include the engineer's firm name, address, telephone number, name of engineer's contact person and must refer to RFP 55-745P5001. Upon receipt of the letter of interest a Request for Proposal packet will be issued. (Note: Written requests, either by mail, hand delivery or fax, will be required to receive Request for Proposal packets. TxDOT will not issue Request for Proposal packets without receipt of a letter of interest.)

Proposal Submittal Deadline: Proposals for 55-745P5001 will be accepted until 5:00 p.m. on Friday, August 16, 1996, at the previously mentioned TxDOT Right of Way Division address.

Agency Contact. Requests for additional information regarding this notice of invitation should be addressed to John Breed, Right of Way Division, Texas Department of Transportation at (512) 416-2956 or fax (512) 416-2909.

Issued in Austin, Texas, on July 16, 1996.

TRD-9610231
Robert E. Shaddock
General Counsel
Texas Department of Transportation
Filed: July 16, 1996

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Notice of Invitation, Contract Number 12-645P8001: Pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.40, the Texas Department of Transportation (TxDOT) intends to engage an architect to provide TxDOT's Houston District with Naval Architectural services for preparation of an updated design and construction inspection for a proposed ferry vessel. All work will be independently performed for the project in Galveston County and at the shipyard of the Contractor. To qualify for contract award, the architect selected must perform a minimum of 30% of the actual contract work.

Deadline. A letter of interest notifying TxDOT of the provider's intent to submit a proposal for Contract Number 12-645P8001 will be accepted by fax at (713) 802-5550 by hand delivery to TxDOT, Houston District Office, Attention: J. R. Salinas, P.E., 7721 Washington Avenue, Houston, Texas, or by mail to P.O. Box 1386, Houston, Texas 77251-1386. Letters of interest will be received until 5:00 p.m. on Friday August 23, 1996. The letter of interest must include the Architect's firm name, address, telephone number, name of architect's contact person and refer to Contract Number 12-645P8001. Upon receipt of the letter of interest a Request for Proposal packet will be issued. (Note: Written requests, either by mail/hand delivery or fax, will be required to receive Request for Proposal packet. TxDOT will not issue Request for Proposal packets without receipt of a letter of interest.)

Preproposal Meeting. A preproposal meeting will be held on Wednesday, September 4, 1996, at 10:00 a.m. at the TxDOT Houston District, Maintenance Conference Room, 7721 Washington Avenue, Houston, Texas. (TxDOT will not accept a proposal from an architect who has failed for any reason to attend the mandatory preproposal meeting.)

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact J. R. Salinas, P.E., (713) 802-5551, at least two

work days prior to the meeting so that appropriate arrangements can be made.

Proposal Submittal Deadline. Proposals for Contract 12-645P8001, will be accepted until 5:00 p.m. on Friday, September 27, 1996, at the TxDOT Houston District Office mentioned address.

Agency Contact. Request for additional information regarding this notice of invitation should be addressed to J. R. Salinas, P.E., at (713) 802-5551 or fax (713) 802-5550.

Issued in Austin, Texas, on July 16, 1996.

TRD-9610232

Robert E. Shaddock

General Counsel

Texas Department of Transportation

Filed: July 16, 1996



Texas Workers' Compensation Commission

Invitation to Applicants for Appointment to the Medical Advisory Committee

The Texas Workers' Compensation Commission (TWCC) invites all qualified individuals, and representative of public health care facilities and other entities to apply to fill any of the following positions on the Medical Advisory Committee (MAC). The majority of these positions are currently filled, but the terms of the current members have either expired (they continue to serve pending reappointment or the appointment of a new applicant) or will expire in August of 1996. Current members may be reappointed, or new applicants appointed. The purpose and tasks of the MAC are outlined in the Texas Labor Code, §413.005, which includes advising the Medical Review Division of TWCC on the development and administration of medical policies and guidelines. The MAC meets, on the average, once every six weeks. MAC members are not reimbursed for travel, per diem, or other expenses associated with the MAC activities and meetings.

The members of the MAC are appointed by the six commissioners of TWCC and include health care providers, representatives of employees and employers and members of the general public. Each member must be knowledgeable and qualified regarding work-related injuries and diseases. The complete membership of the MAC includes 16 primary members and 16 alternate members.

During the primary member's absence, the alternate member will attend the MAC meetings, subcommittee meetings, and work group meetings to which the primary member is appointed, and must vote if a vote is taken. The alternate may attend all meetings. Alternate members shall fulfill the same responsibilities as primary members, as set out in the by-laws of the Medical Advisory Committee as adopted by the Commission.

The terms of MAC members in the following positions have expired or will expire in August, 1996 and are currently open for application: PRIMARY

1. Primary member-General Public (*Term of member has expired*)

2. Primary member-Physical Therapist (*Term of member has expired*)
3. Primary member-M.D. (*Term of member has expired*)
4. Primary member-Medical Equipment Supplier (*Term of member has expired*)
5. Primary member-R.N. (*Term of member has expired*)
6. Primary member - Employer (*Term of member has expired*)
7. Primary member-Employee (*Term of member has expired*)
8. Primary member-Podiatrist (*Term of member will expire in August 1996*)
9. Primary member-Public Health Care Facility (*Vacant*)

ALTERNATE

10. Alternate member-Public Health Care Facility (*Vacant*)
11. Alternate member - M.D. (*Term of member will expire in August 1996*)
12. Alternate member-Private Health Care Facility (*Term of member will expire in August 1996*)
13. Alternate member-Employee (*Term of member will expire in August 1996*)
14. Alternate member-General Public #1 (*Term of member will expire in August 1996*)
15. Alternate member-General Public #2 (*Term of member will expire in August 1996*)
16. Alternate member-Dentist (*Vacant*)

Any person or entity interested in serving on the MAC may submit a curriculum vitae and cover letter to the Director of the Medical Review Division, Texas Workers' Compensation Commission, Southfield Building, MS-40, 4000 South IH-35, Austin, Texas 78704-7491.

If any person has any questions concerning possible membership on the MAC, please call Juanita Salinas at (512) 707-5888.

Issued in Austin, Texas, on July 17, 1996.

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Elaine Crease

Program Assistant, General Counsel's Office

Texas Workers' Compensation Commission

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Texas Workforce Commission

Notice of Revised Table Two

Notice is hereby given that the Texas Workforce Commission has revised the Table 2, which appeared in the June 28, 1996 issue of the *Texas Register* (21 TexReg 6034), relevant to the Program Year 1996 Performance Standards and 5% Incentive Grant System.

The following table supersedes the previously issued table.

TABLE 2

	ADULT EMPLOYER ASSISTED BENEFITS (PERCENT OF PLACE- MENTS)	ADULT HIGH WAGE PLACEMENTS (MINIMUM QUALIFYING WAGE)	JOBS PARTICIPANT RATE		
			AFDC (PERCENT OF TERMINEES)	JOBS TIER I (PERCENT OF TERMINEES)	JOBS TIER II (PERCENT OF TERMINEES)
SDA					
NORTH EAST TEXAS	57.4	\$9.73	21.4	11.0	16.5
CITY OF AUSTIN	57.1	\$11.63	14.0	6.4	9.6
BRAZOS VALLEY	54.5	\$9.37	11.3	4.0	6.1
CONCHO VALLEY	54.7	\$9.19	17.1	5.4	8.1
DEEP EAST TEXAS	56.4	\$9.00	19.5	4.3	6.5
EAST TEXAS	57.2	\$10.03	21.4	8.1	12.2
FORT WORTH	57.9	\$12.00	26.7	14.0	21.0
HEART OF TEXAS	56.3	\$9.67	19.4	12.6	19.0
CITY OF HOUSTON	56.5	\$12.00	24.2	8.9	13.4
GULF COAST	58.3	\$12.00	24.5	7.4	11.1
MIDDLE RIO GRANDE	52.4	\$8.02	23.3	5.9	8.8
NORTH CENTRAL TEXAS	57.8	\$12.00	18.5	6.2	9.3
TEXAS PANHANDLE	54.4	\$10.18	20.7	3.8	5.7
PERMIAN BASIN	57.6	\$10.95	22.0	5.6	8.4
ALAMO	55.7	\$10.70	21.5	8.0	12.1
SOUTH EAST TEXAS	57.5	\$11.87	24.7	8.6	12.8
SOUTH PLAINS	51.3	\$9.56	22.5	2.5	3.7
TARRANT COUNTY	58.7	\$12.00	22.1	8.9	13.4
LUBBOCK-GARZA	54.6	\$9.56	21.4	7.1	10.7
GOLDEN CRESCENT	55.3	\$9.73	22.3	5.1	7.6
TEXOMA	57.6	\$10.43	23.8	7.6	11.4
RURAL CAPITAL	56.6	\$11.63	11.9	2.3	3.4
SOUTH TEXAS	54.4	\$8.22	17.6	2.8	4.2
WEST CENTRAL TEXAS	55.2	\$8.94	18.9	4.7	7.0
CENTRAL TEXAS	55.6	\$10.46	21.1	9.3	14.0
HIDALGO-WILLACY	53.1	\$8.24	26.1	10.0	15.0
RURAL COASTAL BEND	54.7	\$10.39	26.3	3.3	5.0
DALLAS COUNTY	58.4	\$12.00	24.3	8.0	11.9
NORTH TEXAS	56.1	\$9.36	19.4	6.4	9.5
CORPUS CHRISTI	55.8	\$10.39	28.3	9.1	13.7
CITY OF DALLAS	56.5	\$12.00	26.8	13.6	20.4
CAMERON COUNTY	54.1	\$8.24	23.2	8.1	12.2
UPPER RIO GRANDE	56.9	\$9.63	21.8	7.8	11.7

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Esther Hajdar

Director of Legal Services

Texas Workforce Commission

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